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ABSTRACT

The report of the Committee on Education and Labor, together with supplemental minority and additional views is presented to accompany H.R. 4986 to amend the Higher Education Act 1965 to reduce the default rate on student loans under the Act. Topics include the following: committee action; background and need for the legislation; explanation of H.R. 4986; Pell Grant provisions; treatment of student income and assets; independent student definition; notification of loan status; student loan default amnesty program; pilot repayment program; default reduction agreements; use of insurance fund for default reduction management; federal student assistance report; ability to benefit; tuition refund policy; authority to withhold transcripts; use restrictions on institutional promotional activities; guaranty agency study; technical corrections; and inapplicability to outstanding appropriations. The Congressional Budget Office estimate pursuant to section 403 of the Congressional Budget Act of 1974 is set forth. Changes in existing law made by the bill are reported. (SM)

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100TH CONGRESS
*2d Session*
HOUSE OF REPRESENTATIVES
REPORT
100-820

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# STUDENT DEFAULT INITIATIVE ACT OF 1988

AUGUST 4, 1988.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HAWKINS, from the Committee on Education and Labor, submitted the following

# REPORT

together with

## SUPPLEMENTAL MINORITY AND ADDITIONAL VIEWS

[To accompany H.R. 4986]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and Labor, to whom was referred the bill (H.R. 4986) to amend the Higher Education Act of 1965 to reduce the default rate on student loans under that Act, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE; REFERENCES.**

(a) SHORT TITLE.—This Act may be cited as the "Student Default Initiative Act of 1988".

(b) REFERENCE.—References in this Act to "the Act" are references to the Higher Education Act of 1965.

**SEC. 2. PELL GRANT PROVISIONS.**

(a) ESTABLISHMENT OF STATUTORY MAXIMUMS.—Section 411(b)(2)(A) of the Act (20 U.S.C. 1070a(b)(2)(A)) is amended—

(1) by striking "$2,900" in clause (iv) and inserting "$2,400"; and

(2) by striking "$3,100" in clause (v) and inserting "$2,500".

(b) PELL GRANT SHORTFALL PROVISIONS.—Section 411 of the Higher Education Act of 1965 is amended by striking subsection (g) and inserting the following:

"(g) ADJUSTMENTS FOR INSUFFICIENT APPROPRIATIONS.—If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b), the Secretary shall, from the

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next succeeding fiscal year's appropriation for this subpart, expend such sums as may be necessary to meet any such insufficiencies for the preceding fiscal year, not to exceed 10 percent of such preceding fiscal year's appropriation.".

### SEC. 3. DURATION OF PELL GRANT ELIGIBILITY.

Section 411(c)(1)(A) of the Act (20 U.S.C. 1070a(c)(1)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) the number of academic years (or portion of an academic year) that the undergraduate degree or certificate program normally requires, plus one academic year, or the portion of an academic year normally required to obtain the degree or certificate; or

"(ii) 6 academic years in the case of an undergraduate degree or certificate program normally requiring more than 4 academic years;".

### SEC. 4. PREVENTION OF DOUBLE COUNTING OF INCOME IN ASSET COMPUTATIONS.

(a) Pell Grant Program.—Section 411F(2) of the Higher Education Act of 1965 (20 U.S.C. 1070a-6(2)) is amended by adding at the end thereof the following: "No cash on hand or other property (or interest therein) of a dependent student shall be treated as an asset of the student (or spouse) for purposes of section 411B(l) except to the extent that such cash or property exceeds the amount the student is required to contribute from discretionary income under section 411B(f).".

(b) Other Student Assistance Programs.—Section 480(g) of such Act (20 U.S.C. 1087vv(g)) is amended by adding at the end thereof the following: "No cash on hand or other property (or interest therein) of a dependent shall be treated as an asset of the student (or spouse) for purposes of section 475(h) except to the extent that such cash or property exceeds the amount the student is required to contribute from available income under section 475(g).".

### SEC. 5. DEFINITION OF INDEPENDENT STUDENT.

(a) Pell Grants Needs Analysis.—Section 411F(12) of the Act is amended—

(1) by striking subparagraphs (A) and (B) and inserting the following:

"(12)(A) The term 'independent,' when used with respect to a student, means any individual who—

"(i) is 24 years of age or older by December 31 of the first calendar year of the award year;

"(ii) is an orphan or is or has been a ward of the court;

"(iii) is a veteran of the Armed Forces of the United States;

"(iv) is a graduate or professional student;

"(v) is married or has legal dependents;

"(vi) is an undergraduate student who was not claimed by his or her parents (or guardian) for income tax purposes for the two calendar years preceding the first calendar year of the award year, and who either—

"(I) was awarded assistance under this title as an independent student in the prior year, or

"(II) demonstrates to the student financial aid administrator total self-sufficiency during the 2 calendar years preceding the first calendar year of the award year by demonstrating annual total resources (including all sources other than parents and student aid) of $4,000 or, in the case of a student with such annual total resources of less than $4,000, by demonstrating that such student was able to sustain themselves during such period and that remaining sources of financial support were not available from parents or guardians; or

"(vii) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.";

(2) by striking "subparagraph (B)" each place it appears in subparagraphs (C) and (D) and inserting "subparagraph (A)"; and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) General Needs Analysis.—Section 480(d) of the Act (20 U.S.C. 1087vv(d)) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

"(d) Independent Student.—(1) The term 'independent,' when used with respect to a student, means any individual who—

"(A) is 24 years of age or older by December 31 of the first calendar year of the award year;

"(B) is an orphan or is or has been a ward of the court;

"(C) is a veteran of the Armed Forces of the United States;

"(D) is a graduate or professional student;

"(E) is married or has legal dependents;

"(F) is an undergraduate student who was not claimed by his or her parents (or guardian) for income tax purposes for the two calendar years preceding the first calendar year of the award year, and who either—

"(i) was awarded assistance under this title as an independent student in the prior year, or

"(ii) demonstrates to the student financial aid administrator total self-sufficiency during the 2 calendar years preceding the first calendar year of the award year by demonstrating annual total resources (including all sources other than parents and student aid) of $4,000 or, in the case of a student with such annual total resources of less than $4,000, by demonstrating that such student was able to sustain themselves during such period and that remaining sources of financial support were not available from parents or guardians; or

"(G) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.";

(2) by striking "paragraph (2)" each place it appears in paragraphs (3) and (4) and inserting "paragraph (1)"; and

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

### SEC. 6. TREATMENT OF VETERANS' BENEFITS IN CERTIFICATION OF NEED FOR GSL LOANS.

Section 428(a)(2)(C)(i) of the Act (20 U.S.C. 1078(a)(2)(C)(i)) is amended by striking "and any amount paid the student" and all that follows through "loan assistance" and inserting the following: "and any veterans educational benefits paid because of enrollment in a postsecondary education institution, including (but not limited to) benefits received under chapters 106 and 107 of title 10, and chapters 30, 31, 32, 34, and 35 of title 38, United States Code".

### SEC. 7. DEFERMENT FOR STUDENTS DISPLACED BY SCHOOL CLOSINGS.

(a) GSL LOANS.—Section 428(b)(1)(M) of the Act (20 U.S.C. 1078(b)(1)(M)) is amended—

(1) by striking "and" at the end of clause (x);

(2) by inserting "and" at the end of clause (xi); and

(3) by inserting after clause (xi) the following:

"(xii) not in excess of 12 months during which the borrower is seeking to enroll in a course of study meeting the requirements of clause (i) of this subparagraph, if the borrower was displaced, by the closing or other cessation of activities of an institution, from enrollment in such a course of study;".

(b) FISL LOANS.—Section 427(a)(2)(C) of the Act (20 U.S.C. 1077(a)(2)(C)) is amended—

(1) by striking "or" at the end of clause (x);

(2) by striking the comma at the end of clause (xi) and inserting "; or"; and

(3) by inserting after clause (xi) the following:

"(xii) not in excess of 12 months during which the borrower is seeking to enroll in a course of study meeting the requirements of clause (i) of this subparagraph, if the borrower was displaced, by the closing or other cessation of activities of an institution, from enrollment in such a course of study,".

### SEC. 8. NOTICE TO BORROWER AND INSTITUTION OF SALE OF LOAN.

Section 428(b)(2) of the Act (20 U.S.C. 1078(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(3) by inserting after such subparagraph the following:

"(F) provide that the lender will be required promptly to notify the borrower, and, upon the request of such institution, the guaranty agency shall notify the last institution the student was attending prior to the beginning of repayment of—

"(i) any sale or other transfer of the loan to another holder,

"(ii) the address and phone number through which to contact such other holder concerning repayment of the loan,

if the borrower is in the grace period or in repayment status, and if the sale or transfer results in the student being required to make payments, or to direct other matters concerned with the loan, to a person other than the person to whom such payments were made or such matters were directed before such sale or transfer;".

### SEC. 9. PRECLAIMS ASSISTANCE REQUIRED.

Section 428(b)(2) of the Act is further amended by adding at the end thereof the following:

"(G) requires the guaranty agency to provide preclaims assistance for default prevention, as described in subsection (c)(6)(B)(ii); and".

### SEC. 10. INFORMATION FROM GUARANTY AGENCIES TO INSTITUTIONS CONCERNING LOAN STATUS.

Section 428(k)(1) of the Act is amended by striking the first sentence and inserting the following: "In order to notify eligible institutions concerning the loan status of their former students, each guaranty agency shall notify an eligible institution of, and furnish information with respect to (A) any such former student who is in default of the repayment of any loan made, insured, or guaranteed under this part, and (B) any such student who has entered repayment on such a loan after such a default.".

### SEC. 11. LOAN CONSOLIDATION ELIGIBILITY.

Section 428C(a)(3)(A)(ii) of the Act (20 U.S.C. 1078-3(a)(3)(A)(ii)) is amended to read as follows:

"(ii) is in repayment status, or in a grace period preceding repayment, or is a delinquent or defaulted borrower who will reenter repayment through loan consolidation.".

### SEC. 12. MARRIED COUPLE ELIGIBILITY FOR LOAN CONSOLIDATION.

Section 428C(a)(3) of the Act (20 U.S.C. 1078-3(a)(3)) is amended by adding at the end thereof the following:

"(C)(i) A married couple, each of whom has eligible student loans, may be treated as if they were an individual borrower under subparagraphs (A) and (B) if they agree to be held jointly and severally liable for the repayment of a consolidation loan, without regard to the amounts of their respective loan obligations that are to be consolidated, and without regard to any subsequent change that may occur in their marital status.

"(ii) Only one spouse in a married couple applying for a consolidation loan under this subparagraph need meet any of the requirements of subsection (b) of this section, except that each spouse shall (I) individually make the initial certification that no other application is pending provided for in subsection (b)(1)(A), and (II) agree to notify the holder concerning any change of address as provided for in subsection (b)(4).".

### SEC. 13. AMNESTY PROGRAM.

(a) Amendment.—Section 428F of the Act (20 U.S.C. 1078-6) is amended to read as follows:

### "AMNESTY PROGRAM

"Sec. 428F. (a) Program Requirements.—

"(1) Authority to establish an amnesty program.—The Secretary shall, in accordance with the requirements of this section, establish an amnesty program for borrowers who have one or more loans under part B of title IV of the Act which are in default, as defined in section 435(l). Such program shall commence on October 1, 1989, and shall last for six months.

"(2) Eligibility for the benefits of the amnesty program.—In order to be eligible for the benefits of the amnesty program, a borrower who has a loan or loans which are in default shall contact the holder of such loan or loans during the amnesty program and shall pay in full all remaining principal and interest on such loan or loans.

"(3) Benefits of the amnesty program.—For each borrower meeting the requirement of paragraph (2)—

"(A) no penalties shall be charged on defaulted loans which are paid in full;

"(B) any information on the defaulted loan or loans which has been reported to credit bureaus shall be removed; and

"(C) notwithstanding section 484, eligibility to receive additional assistance under this title shall be reestablished.

"(b) Other Repayment Incentives.—

"(1) Sale of loan.—Upon securing consecutive payments for 12 months of amounts owed on a loan for which the Secretary has made a payment under paragraph (1) of section 428(c), or upon a determination that a loan was in default due to clerical or data processing error and would not, in the absence of such error, be in a delinquent status, the guaranty agency (pursuant to an agreement with the Secretary) or the Secretary shall, if practicable, sell the loan to an eligible lender, other than an eligible lender who has been found by the guaranty agency or the Secretary to have substantially failed to exercise the due diligence required of lenders under this part. Such agreement between the guaranty agency and the Secretary shall provide—

"(A) for the repayment by the agency to the Secretary of 81.5 percent of the amount of the principal balance outstanding at the time of such sale multiplied by a percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

"(B) for the reinstatement by the Secretary (i) of the obligation to reimburse such agency for the amount expended by it in discharge of its insurance obligation under its loan insurance program and (ii) of the obligation to pay to the holder of such loan a special allowance pursuant to section 438.

"(2) **Use of proceeds of sales.**—Amounts received by the Secretary pursuant to the sale of such loans by a guaranty agency under this paragraph shall be deducted from the calculations of the amount of reimbursement for which the agency is eligible under paragraph (1)(B) of this section for the fiscal year in which the amount was received, notwithstanding the fact that the default occurred in a prior fiscal year.

"(3) **Borrower eligibility.**—Any borrower whose loan is sold under paragraph (1) shall not be precluded by section 484 from receiving additional loans under this title (for which he or she is otherwise eligible) on the basis of defaulting on the loan prior to such loan sale.

"(4) **Applicability of general loan conditions.**—A loan which is sold under this paragraph shall, so long as the borrower continues to make scheduled repayments thereon, be subject to the same terms and conditions and qualify for the same benefits and privileges as other loans made under this part.".

(b) **Publicity.**—The Secretary of Education shall, commencing not less than 30 days before the beginning of the amnesty program required by the amendment made by this section, and continuing throughout the duration of such amnesty program, widely publicize (through various communications media) the availability of the amnesty program.

### SEC. 14. ADDITIONAL REQUIREMENTS WITH RESPECT TO DISBURSEMENT OF STUDENT LOANS.

(a) **Amendment.**—Part B of title IV of the Act is amended by inserting after section 428F (20 U.S.C. 1078-6) the following new section:

### "REQUIREMENTS FOR DISBURSEMENT OF STUDENT LOANS

"Sec. 428G. (a) **Multiple Disbursement Required.**—

"(1) **Two disbursements required.**—The proceeds of any loan made, insured, or guaranteed under this part that is made for any period of enrollment that ends more than 180 days (or 6 months) after the date disbursement is scheduled to occur, and that is for an amount of $1,000 or more, shall be disbursed in 2 or more installments, none of which exceeds one-half of the loan.

"(2) **Minimum interval required.**— The interval between the first and second such installments shall be not less than one-half of such period of enrollment, except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment.

"(b) **Initial Disbursement Requirements.**—

"(1) **First-year students.**—The first installment of the proceeds of any loan made, insured, or guaranteed under this part that is made to a student borrower who is entering the first year of a program of undergraduate education, and who has not previously obtained a loan under this part, shall (regardless of the amount of such loan or the duration of the period of enrollment)—

"(A) be disbursed by check or other negotiable instrument in the manner required by section 428(b)(1)(N);

"(B) not be negotiated by the institution until 15 days after the beginning of the period of enrollment;

"(C) not be negotiated at the end of such period unless—

"(i) the student continues to be enrolled and in good standing at the institution;

"(ii) the institution has conducted an entrance interview with the student borrower at which the borrower is counseled—

"(I) with respect to loan terms and conditions and the consequences of default; and

"(II) to use loans as a last resort to cover the cost of financing postsecondary education.

"(2) Other students.—The proceeds of any loan made, insured, or guaranteed under this part that is made to any student other than a student described in paragraph (1) shall not be disbursed more than 30 days prior to the beginning of the period of the enrollment for which the loan is made.

"(3) Beginning of period of enrollment.—For purposes of this subsection, a period of enrollment begins on the first day that classes begin for the applicable period of enrollment.

"(4) Time for entrance interview.—For purposes of this subsection, the entrance interview may take place not more than 90 days prior to the first day of the period of enrollment.

"(5) Report on delayed disbursement.—The Secretary shall prepare and, not later than June 30, 1989, and June 30, 1991, shall submit to the appropriate committees of the Congress and the President a report on the effect of the delayed disbursement of student loans to first time, first year students. Such report shall include an assessment of the impacts of delayed disbursement, including paperwork and demand for emergency student loans, on various types of postsecondary educational institutions, including public and private four-year colleges, community colleges, and proprietary schools. The report shall also assess the impacts of delayed disbursement on students and their families as differentiated by income, types of financial assistance received by the student, and student residence on campus, at home, or at other off-campus housing. The report shall assess the impact delayed disbursement has had and is likely to have for potential applicants and students, including decisions to pursue postsecondary education, and effects of delayed disbursement on the student's subsequent retention and educational performance.

"(c) Method of Multiple Disbursement.—Disbursements under subsections (a) and (b)—

"(1) shall be made in accordance with a schedule provided by the institution (under section 428(a)(2)(A)(i)(III)) that complies with the requirements of this section; and

"(2) may be made directly by the lender or, in the case of a loan under section 428, may be disbursed pursuant to the escrow provisions of subsection (i) of such section.

"(d) Withholding of Second Disbursement.—

"(1) Withdrawing students.—A lender or escrow agent that is informed by the borrower or the institution that the borrower has ceased to be enrolled on at least a half-time basis before the disbursement of the second or any succeeding installment shall withhold such disbursement unless notified by the institution that such disbursement is necessary to cover costs already earned by the institution (within the meaning of section 485(a)). Any disbursement which is so withheld shall be credited to the borrower's loan and treated as a prepayment thereon.

"(2) Students receiving over-awards.—If the sum of a disbursement installment for any student and the other financial aid obtained by such student exceeds the amount of assistance for which the student is eligible under this title, the institution such student is attending shall withhold and return to the lender or escrow agent the portion (or all) of such installment that exceeds such eligible amount. Any portion (or all) of a disbursement installment which is so returned shall be credited to the borrower's loan and treated as a prepayment thereon.

"(e) Aggregation of Multiple Loans.—All loans issued for the same period of enrollment shall be considered as a single loan for the purposes of subsection (a) of this section.

"(f) Exclusion of PLUS, Consolidation, and Foreign Study Loans.—The provisions of this section shall not apply in the case of a loan made under section 428B or 428C or made to a student to cover the cost of attendance at an eligible institution outside the United States.".

(b) Development of Video Tapes for Use in Entrance and Exit Interviews.—Section 432 of the Act (20 U.S.C. 1082) is amended by adding at the end thereof the following:

"(j) Development of Video Tapes for Use in Entrance and Exit Interviews.—

"(1) Authority to procure.—The Secretary shall, with funds appropriated under paragraph (2), obtain by contract the production and distribution of video tapes to be used in the entrance interviews required by section 428G(b)(1)(C)(ii) and the exit interviews required by section 485(b). Such tapes shall be obtained only from a nonprofit organization with expertise in the area of student financial aid and shall be distributed to eligible institutions without cost or at not more than $50 per copy.

"(2) Authorization of appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.".

(c) Conforming Amendments.—

(1) Transmittal of institution schedules to lenders.—Section 428(a)(2)(A)(i) of the Act (20 U.S.C. 1078(a)(2)(A)(i)) is amended—

(A) by striking "and" at the end of clause (I); and

(B) by inserting after clause (II) the following:

"(III) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G; and".

(2) Federally insured loans.—Section 427(a)(4) of the Act (20 U.S.C. 1077(a)(4)) is amended to read as follows:

"(4) the funds borrowed by a student are disbursed in accordance with section 428G.".

(3) Guaranteed loans.—Section 428(b)(1)(O) of the Act (20 U.S.C. 1078(b)(1)(O)) is amended to read as follows:

"(O) provides that the proceeds of the loans will be disbursed in accordance with the requirements of section 428G;".

**SEC. 15. MINIMUM IN-SCHOOL REPAYMENT PILOT PROGRAM.**

Part B of title IV of the Act is further amended by inserting after section 428G the following:

"MINIMUM IN-SCHOOL REPAYMENT PILOT PROGRAM

"Sec. 428H. (a) Authority To Establish Pilot Program.—The Secretary shall, in accordance with the requirements of this section, establish a pilot program to test the feasibility of requiring minimum repayments by students through escrow accounts administered by the institutions they are attending. The Secretary shall select institutions for participation based on an expression of interest to participate from such institution. Such pilot program shall be commenced within 3 months and completed within 3 years after the date of enactment of this section. The Secretary shall submit to the Congress periodic reports on the results of such pilot program.

"(b) Program Requirements.—

"(1) In general.—Each student who has received a loan under this part for study at an eligible institution that is participating in the pilot program shall submit to such institution a minimum of $10 per month and a maximum of $25 per month for deposit in an escrow account administered in accordance with this subsection. Such payments shall be made by the first day of each month beginning more than 60 days after the initial disbursement of such loan. A student shall not be required to make more than one such payment per month, regardless of the number of loans such student has received for study at such institution.

"(2) Administration of escrow accounts.—Funds submitted by students under paragraph (1) to an eligible institution shall be deposited by the institution into an escrow account. On June 15 and December 15 of each year, the institution shall pay from such account to the lender for any such student the total amount submitted by that student during the preceding 6 months. Such payment shall be treated as an accelerated payment of the loan under section 428(b)(1)(D)(i).

"(3) Institutional incentives.—Each institution administering an escrow account under this section may—

"(A) receive an annual payment in an amount determined by the Secretary, not to exceed $20 per student participating in the escrow account, from funds appropriated under paragraph (7); and

"(B) retain any interest accruing on such account.

"(4) Enforcement of student participation.—If a student fails to submit to an institution a payment to an escrow account when it is due, such institution may—

"(A) refuse to provide such student with the certification required under section 428(a)(2) for any subsequent loan to such student; and

"(B) withhold any subsequent disbursement of the proceeds of any loan to such student.

"(5) Loan counseling.—Any institution administering an escrow account under this subsection shall provide loan counseling to students informing them of their responsibilities under this subsection and of the consequences of failure to submit a payment to an escrow account when it is due.

"(6) Payments included in cost of attendance.—The total amount that a student is required to pay under this section during a period of enrollment shall be included in computing the cost of attendance for such period.

"(7) Authorization of appropriations.—There are authorized to be appropriated such sums as may be necessary to make the payments authorized by paragraph (3)(A) of this subsection.".

### SEC. 16. NOTICE TO CREDIT BUREAUS OF DELINQUENCY.

(a) Notice of Delinquency.—Section 430A(a) of the Act (20 U.S.C. 1080a(a)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following:

"(3) with respect to any loan that has been delinquent for 90 days, information concerning the date the delinquency began and the repayment status of the loan; and".

(b) Notice to Borrower.—Section 430A(c) of the Act is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following:

"(5) with respect to notices of delinquency under subsection (a)(3), the borrower is informed that credit bureau organizations will be notified of delinquency that continues for 90 days or more.".

(c) Information to Students.—Section 433 of the Act (20 U.S.C. 1083) is amended—

(1) in subsection (a)(6), by inserting before the semicolon the following: ", including an explanation of the availability of deferments and a statement that the borrower should notify the lender of the reasons for any failure to make a payment when it is due"; and

(2) in subsection (b)(6), by inserting before the semicolon the following: "and including an explanation of the availability of deferments and a statement that the borrower should notify the lender of the reasons for any failure to make a payment when it is due".

### SEC. 17. PROMULGATION OF GUIDELINES FOR INSTITUTIONAL PROGRAMS TO ENCOURAGE LOAN REPAYMENT.

The Secretary shall promulgate guidelines for eligible institutions to use to encourage student loan repayment in accordance with part B of title IV of the Act as amended by this Act. Such guidelines shall include an explicit delineation of legal restrictions and requirements relating to disclosure of borrower records to third parties, the Fair Debt Collection Practices Act, and any other applicable Federal law. The guidelines shall also include a model program, including sample letters and scripts for telephone contacts, in a format facilitating replication by institutions.

### SEC. 18. DEFAULT REDUCTION AGREEMENTS.

Part B of title IV of the Act is amended by inserting after section 430A the following new section:

#### "DEFAULT REDUCTION AGREEMENT

"Sec. 430B. (a) Plan for Comprehensive Reviews.—

"(1) In general.—Within 3 months of the date of enactment of this section, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan to establish a comprehensive schedule of program reviews for all eligible institutions, guaranty agencies, and lenders participating in the loan programs authorized under this title.

"(2) Five-year review cycle.—The plan will be designed to accomplish reviews of all participating institutions, lenders, and guaranty agencies within five years, with priority attention to agencies and institutions experiencing difficulties administering such programs.

"(3) Estimates required.—The plan shall include estimates of the budgetary and personnel requirements for carrying out such comprehensive reviews.

"(4) Period for comment; reports on progress.—The Secretary shall not implement any plan until 30 days after the date of its submission to the committees required by paragraph (1). The Secretary shall, at the end of each fiscal year, report to such committees on progress made in implementing the plan and on modifications of the plan proposed for the following fiscal year.

"(b) Default Report.—The Secretary shall, not later than December 31, 1989, and annually thereafter, develop and submit to the Congress an annual default report which shall include—

"(1) the annual default rate for each institution of higher education participating in the student loan program under this part;

"(2) the annual dollars in default for each institution of higher education participating in such program;

"(3) the annual default rate and annual dollars in default for each guarantee agency and eligible lender participating in such program;

"(4) the average national cumulative default rate;

"(5) the cohort default rate for each institution; and

"(6) the annual program default rate.

"(c) Default Reviews.—

"(1) Reviews required based on rankings.—Within 90 days of the publication of each report under subsection (b), the Secretary shall, subject to subsection (g), initiate default reviews at those institutions that fall in the top 5 percent of—

"(A) all institutions ranked by cohort default rates, excluding institutions with less than 100 loans under this part outstanding;

"(B) all institutions ranked by annual dollars in default, excluding institutions whose annual default rate is less than the average national cumulative default rate of all institutions.

"(2) Method of ranking of institutions.—For the purposes of identifying institutions of higher education that are required to participate in a default reduction agreement under this section, the institutions which are engaged in a default reduction agreement, or for which a waiver has been granted under subsection (g), shall be excluded in the ranking under paragraph (1) of institutions by default rates or dollars in default.

"(d) Contents of Default Review.—A program review shall include (but not be limited to) the following considerations:

"(1) the administrative practices of the institution with regard to programs under this title;

"(2) a financial audit of the institutions' fiscal practices and record keeping;

"(3) the composition or size of the student population;

"(4) the recruiting, admissions, advertising, and marketing policies of the institution;

"(5) the administration of the 'ability to benefit' provisions of section 484(d) of this title;

"(6) the number of students who have left the institution other than after graduation, including leave-of-absence and academic suspension;

"(7) program completion and participation rates;

"(8) the financial aid counseling policies and practices of the institution; and

"(9) other areas of institutional activities that relate to the reduction of defaults.

"(e) Negotiation of the Default Reduction Agreement.—Subject to subsection (g), the Secretary shall, within 30 days of the completion of the default review as required by subsection (c), initiate a negotiated default reduction agreement with the institution, based on the findings of such default review.

"(f) Conditions of the Default Reduction Agreement.—Such an agreement shall be based on and be consistent with both the institution's and the reviewers' recommendations on specific actions to be taken by the institution that will lead to the reduction of the institution's annual default rate, or the reduction of the annual dollars in default, or both. Such an agreement shall reflect the characteristics of the institution and may include (but is not limited to)—

"(1) additional training in the administration of the programs under this title;

"(2) access to technical assistance in the operation of such programs provided by either the Department of Education or a State guaranty agency;

"(3) requirements that the institution conduct entrance and exit interviews;

"(4) requirements that the institution establish contact with students during the grace period;

"(5) requirements that the institution collect additional information from borrowers; and

"(6) periodic reporting on the status of students receiving aid under this title at the institution.

"(g) Waiver.—The Secretary may, with respect to an institution of higher education, waive the default reduction agreement requirement of this section, if the Secretary determines that compliance with such requirement will not lead to a significant reduction of that institution's annual default rate or annual dollars in default.

"(h) Duration and Termination of Agreements.—A default reduction agreement shall continue in effect for no longer than three years, and shall provide for a minimum of one evaluation by the Department of Education during the duration of the agreement. If, during the institutions' interim evaluation or evaluations, it is determined that the institution no longer would be subject to default review under subsection (b), the default reduction agreement shall be terminated.

"(i) Completion of the Default Reduction Agreement.—Upon the expiration of the default reduction agreement, the Secretary shall assess the institution's compliance with the agreement. In the event that the institution has fully complied with the agreement and remains in the top 5 percent of all institutions in annual default rates or annual dollars in default, the Secretary shall exempt the institution from the requirement to enter into such agreements for a period not to exceed 3 years.

"(j) Use of L.S.&T. Authority.—

"(1) Initiation of proceedings required.—The Secretary shall initiate a limitation, suspension, or termination proceeding under section 487(c)(1)(D) with respect to an institution's eligibility to participate in the programs under this title if the institution refuses to enter into, or fails substantially to comply with, a default reduction agreement required in accordance with this section.

"(2) Restriction on use of authority.—The Secretary shall not initiate any limitation, suspension, or termination proceeding under any provision of this title with respect to such eligibility solely on the basis of the default rate (however computed) of the borrowers who attended any institution (whether or not that institution has been the subject of a program review or default reduction agreement under this section).

"(k) Definitions.—As used in this section—

"(1) the term 'cohort default rate' means the percentage of total matured loans on which borrowers have defaulted in the subject fiscal year as determined by dividing—

"(A) the total claims paid during the subject fiscal year and the year following the subject fiscal year on loans entering repayment during the subject fiscal year, by

"(B) the total amount of loans in repayment that entered repayment in the subject fiscal year; and

"(2) the term 'annual dollars in default' means the total principal and interest outstanding on loans on which such claim payments have been made during the subject fiscal year.".

### SEC. 19. USE OF INSURANCE FUND FOR DEFAULT REDUCTION MANAGEMENT.

(a) Amendment.—Section 431 of the Act is amended by adding at the end thereof the following:

"(c) Use for Default Reduction Management.—

"(1) Use required.—The Secretary shall annually expend no less than $20,000,000 or more than $25,000,000 from funds under this section for default reduction management activities. Such funds shall be in addition to, and not in lieu of, other appropriations made for such purposes.

"(2) Allowable activities.—Allowable activities for which such funds shall be expended by the Secretary shall include (but not be limited to) the following:

"(A) program reviews;

"(B) audits;

"(C) debt management programs;

"(D) training activities; and

"(E) such other management improvement activities approved by the Secretary.

"(3) Plan for use required.—The Secretary shall submit a plan, for inclusion in the materials accompanying the President's budget each fiscal year, detailing the expenditure of funds authorized by this section. At the conclusion of each fiscal year, the Secretary shall report his findings and activities concerning the expenditure of funds authorized by this section to the Appropriations Committees of the House of Representatives and the Senate and to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

"(4) TRAINING ACTIVITIES.—Not less than $2,000,000 of the amount made available under paragraph (1) of this subsection shall be used to carry out section 486 of this Act.".

(b) CONFORMING AMENDMENT.—Section 486(c) of the Act (20 U.S.C. 1093(c)) is amended—

(1) by striking out "$1,000,000" and inserting "$2,000,000"; and

(2) by striking out "1986" and inserting "1991".

### SEC. 20. CIVIL PENALTIES FOR GSL PROGRAM VIOLATIONS.

Section 432(g) of the Act (20 U.S.C. 1082(g)) is amended—

(1) in paragraph (1)—

(A) by inserting ", an eligible institution," after "a lender";

(B) by striking out "or" at the end of subparagraph (A) of such paragraph;

(C) by inserting "or" at the end of subparagraph (B) of such paragraph;

(D) by inserting after subparagraph (B) of such paragraph the following: "(C) has repeatedly engaged in violations of provisions of this part or regulations prescribed under this part,";

(E) by inserting ", institution," after "such lender"; and

(F) by adding at the end of such paragraph the following: "For purposes of subparagraph (C) of this paragraph, multiple instances of the same servicing error or omission shall not be considered 'repeated violations' unless such error or omission is not corrected after the lender, institution, or agency knows or should, in the exercise of reasonable care, know, that the error or omission is in violation of such provisions."; and

(2) by striking paragraph (3) and inserting the following:

"(3) CORRECTION OF FAILURE.—A lender or guaranty agency shall not be relieved of liability under paragraph (1) because of its cure or correction of the violation or failure, or its notification of the person who received the substantial misrepresentation of the actual nature of the financial charges involved, in cases where the cure, correction, or notification is made after the discovery by the Department of the violation, failure, or misrepresentation.".

### SEC. 21. ADDITIONAL INFORMATION TO STUDENTS.

(a) INFORMING STUDENTS OF IDENTITY OF GUARANTY AGENCY.—Section 433 of the Act (20 U.S.C. 1083) is amended by inserting before the semicolon at the end of paragraph (1) of subsections (a) and (b) the following: ", and the name of the guaranty agency for the loan and the toll-free number that the guaranty agency is required to maintain under section 428(b)(2)(H) to inform students of the status of their loans".

(b) INFORMATION AT THE TIME OF DELINQUENCY.—Section 433 of the Act (20 U.S.C. 1083) is further amended by adding at the end thereof the following:

"(e) REQUIRED DISCLOSURE BEFORE 90 DAYS OF DELINQUENCY.—Each holder of a loan insured or guaranteed under this part shall, within the period beginning 30 days and ending 90 days after any delinquency by the borrower, send the borrower a list of loan deferments available under section 427(a)(2)(C) or 428(b)(1)(M) and a statement of the eligibility requirements for such deferments.".

(c) REQUIREMENT FOR GUARANTY AGENCY TOLL-FREE NUMBERS.—Section 428(b)(2) of the Act (20 U.S.C. 1078(b)(2)) is further amended by adding at the end thereof the following:

"(H) requires the guaranty agency to establish and publicize the existence of a toll-free telephone number to provide timely and accurate information to student borrowers regarding the status of their loans under this part.".

### SEC. 22. RESPONSIBILITY OF ACCREDITING AGENCIES TO INVESTIGATE EXCESSIVE DEFAULTS AND OTHER INDICATORS OF LACK OF SUCCESSFUL EMPLOYMENT.

Section 435(b) of the Act (20 U.S.C. 1085(b)) is amended by adding at the end thereof the following: "In approving or disapproving an accrediting agency for purposes of paragraph (5), the Secretary may take into account the extent to which such accrediting agency (I) reviews the academic programs and performance of institutions for which a program review is required under section 430B(c), and (II) performs inspections and reviews of such institutions with particular attention to dropout rates and job placement rates as indicators of inadequate counseling and instructional programs and causes of such default rates.".

### SEC. 23. EFFECT OF LOSS OF ACCREDITATION.

(a) Status as Eligible Institution for GSL Program.—Section 435 of the Act (20 U.S.C. 1085) is amended—

(1) in subsection (a)(1), by striking out "The term" and inserting "Subject to subsection (k), the term"; and

(2) by adding at the end thereof the following:

"(k) Impact of Loss of Accreditation.—

"(1) In general.—Except as provided in paragraph (2), an institution may not be certified or recertified as an eligible institution under subsection (a) of this section if such institution has—

"(A) had its accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months; or

"(B) withdrawn from accreditation voluntarily under a show cause or suspension order during the preceding 24 months.

"(2) Exceptions.—Paragraph (1) shall not apply to an institution if—

"(A) such institution's accreditation has been restored by the same accrediting agency which had accredited it prior to the withdrawal, revocation or termination; or

"(B) such institution has demonstrated its academic integrity to the satisfaction of the Secretary in accordance with section 1201(a)(5) (A) or (B) of this Act.".

(b) Status as Eligible Institution for Other Title IV Programs.—Section 481 of the Act (20 U.S.C. 1088) is amended—

(1) in subsection (a)(1), by striking out "For the purpose" and inserting "Subject to subsection (e), for the purpose";

(2) by adding at the end thereof the following:

"(e) Impact of Loss of Accreditation.—

"(1) In general.—Except as provided in paragraph (2), an institution may not be certified or recertified as an institution of higher education under subsection (a) of this section if such institution has—

"(A) had its accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months; or

"(B) withdrawn from accreditation voluntarily under a show cause or suspension order during the preceding 24 months.

"(2) Exceptions.—Paragraph (1) shall not apply to an institution if—

"(A) such institution's accreditation has been restored by the same accrediting agency which had accredited it prior to the withdrawal, revocation or termination; or

"(B) such institution has demonstrated its academic integrity to the satisfaction of the Secretary in accordance with section 1201(a)(5) (A) or (B) of this Act.".

### SEC. 24. TREATMENT OF AWARD YEAR WORK-STUDY EARNINGS.

Section 443(b)(4) of the Act (20 U.S.C. 2753(b)(4)) is amended to read as follows:

"(4) provide that for a student employed in a work-study program under this part, at the time income derived from any need-based employment (including non-work-study or both) is in excess of the determination of the amount of such student's need by more than $200, continued employment shall not be subsidized with funds appropriated under this part;".

### SEC. 25. RESTRICTION ON NEED ANALYSIS FOR PARENTS NOT ENROLLED IN DEGREE OR CERTIFICATE PROGRAM.

In sections 475 and 477 of the Act (20 U.S.C. 1087oo, 1087qq), insert at the end of subsection (b) the following: "For purposes of paragraph (3) of this subsection, the number of family members attending such a program does not include any parent who does not meet the requirements of section 484(a)(1) or 484(b)(2).".

### SEC. 26. STUDENT FINANCIAL AID ADMINISTRATOR DISCRETION.

Section 479A of the Act (20 U.S.C. 1087tt) is amended by adding at the end thereof the following:

"(d) Adjustments for Independent Students With Dependents.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if the administrator determines that the cost of attendance determined under section 472 should include costs of food and shelter for dependent care when the income for independent students with dependents is less than the standard maintenance allowance as defined in section 477(b)(4).".

### SEC. 27. TREATMENT OF NONLIQUID ASSETS.

(a) GENERAL NEED ANALYSIS.—Section 480(g) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(g)) is amended—

(1) by inserting "(1)" after "ASSETS.—"; and

(2) by adding at the end thereof the following:

"(2) For academic year 1990–1991 and succeeding academic years, the term 'assets' shall not include the net value of—

"(A) the family's principal place of residence;

"(B) a family farm (as that term is defined in regulations prescribed by the Secretary of Agriculture pursuant to the Consolidated Farm and Rural Development Act) on which the family resides; or

"(C) a small business (as that term is defined in regulations prescribed by the Administrator of the Small Business Administration pursuant to Small Business Act) substantially owned and managed by a member or members of the family.

The Secretary shall, by regulation, provide criteria for determining whether a small business is substantially owned and managed by a member or members of the family.".

(b) SECRETARY TO RECOMMEND ADJUSTMENTS.—Within 60 days after the date of enactment of this Act, the Secretary of Education shall submit to the Congress such recommendations for changes to parts A and F of title IV of the Higher Education Act of 1965 as may be necessary to achieve an equitable assessment of income and assets after exclusion of the assets described in the amendments made by subsection (a) of this section. Such changes may include changes in the assets protection allowances, asset conversion rates, and other factors used in the determination of expected family contribution.

### SEC. 28. DEFINITION OF ACADEMIC YEAR.

Section 481(d) of the Act (20 U.S.C. 1088(d)) is amended to read as follows:

"(d) ACADEMIC YEAR.—(1) For the purpose of any program under this title, the term 'academic year' shall be defined as—

"(A) 24 semester or trimester hours or units, or 36 quarter hours or units;

"(B) 720 clock hours of supervised training; or

"(C) 720 clock hours in a program of study by correspondence.

"(2) Notwithstanding paragraph (1), if an institution of higher education, or an eligible institution for purposes of part B of this title, is licensed by the State in which it is located to provide a course of study the duration of which is (A) specifically required by State law or regulation to be measured on a clock hour basis, or (B) specifically prohibited by State law or regulation from being measured in credit hours, that institution may not measure the length of the course of study or its academic year for that course of study on a credit hour basis for purposes of this title. In all other States, the institution may measure the length of the course of study or its academic year for that course of study on either basis for purposes of this title, but the recognized accrediting agency's assessment as to the number of credit hours constituting the course of study shall apply in the event the institution chooses to measure the length of the course of study or its academic year for that course of study on a credit hour basis.

"(3) Upon application by an eligible institution which offers a combination correspondence/residential training program, the Secretary may waive other criteria regarding length of a course if the eligible institution offering such training—

"(A) satisfies all requirements otherwise imposed by the Secretary and the institution's accrediting agency, and

"(B) the institution's courses meet the minimum standards, either by clock or credit hours, required for participation in any loan or grant program under this title.".

### SEC. 29. FEDERAL STUDENT ASSISTANCE REPORT.

Section 483(f)(1) of the Act (20 U.S.C. 1090(f)(1)) is amended by striking out "amount" and inserting in lieu thereof "source".

### SEC. 30. ABILITY TO BENEFIT.

Section 484(d) of the Act (20 U.S.C. 1091(d)) is amended to read as follows:

"(d) ABILITY TO BENEFIT.—(1) A student who is admitted on the basis of the ability to benefit from the education or training shall, in order to remain eligible for any grant, loan, or work assistance under this title—

"(A) receive a general education diploma prior to the student's certification or graduation from the program of study, or by the end of the first year of the course of study, whichever is earlier; or

"(B)(i) be counseled prior to admission and be enrolled in and successfully complete the institutionally prescribed program of remedial or developmental education not to exceed one academic year or its equivalent; and

"(ii) be administered a nationally recognized, standardized, or industry developed test, subject to criteria developed by the appropriate accrediting association, measuring the applicant's aptitude to complete successfully the program to which the applicant has applied.

"(2) Any applicant who is unable to satisfy the institution's admissions testing requirements specified in paragraph (1)(B)(ii) shall be enrolled in and successfully complete an institutionally prescribed program or course of remedial or developmental education, not to exceed one academic year or its equivalent, in order to remain eligible for any grant, loan, or work assistance under this title.

"(3) A student may not be eligible for such assistance if such student is enrolled in either an elementary or secondary school.

"(4) With respect to tests administered under paragraph (1)(B)(ii) of this subsection, reasonable accommodation shall be made and alternative forms of assessment shall be available for any otherwise qualified applicant to enable an applicant who is of limited English proficiency to take the test. Test results shall be used as one of multiple independent indicators in making admissions and related decisions.".

### SEC. 31. TUITION REFUND POLICY.

(a) AMENDMENT.—Section 485(a) of the Act (20 U.S.C. 1092(a)) is amended by adding at the end thereof the following:

"(3) For the purposes of paragraph (1)(F) of this subsection, tuition and fees shall be considered to be 'earned' in increments (which shall not be greater than 10 percent) of the enrollment period which has elapsed at the time the student withdraws, except that (A) in the case of students withdrawing on or after completion of 50 percent of the enrollment period, the full amount of tuition and fees shall be considered to be 'earned', and (B) the institution shall be treated as earning initial administrative expenses, as defined in accordance with regulations prescribed by the Secretary, at the beginning of such enrollment period. For purposes of this paragraph, the term enrollment period shall mean the length of the program or one calendar year, whichever is less. For the purposes of this paragraph, refunds shall be credited in the following order: outstanding balance on loans under part B, including origination fee; outstanding balance or loans under part E, and finally, other Federal student aid.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to periods of enrollment beginning on or after July 1, 1989.

### SEC. 32. WITHHOLDING OF TRANSCRIPTS FROM DEFAULTING BORROWERS.

Section 487(a) of the Act (20 U.S.C. 1094(a)) is amended by adding at the end thereof the following:

"(11) Upon notification from the guarantee agency of the default of a student, the institution will withhold the academic transcripts of any student borrower who is in default on any loan made under this title unless the institution determines that—

"(A) withholding such transcripts will prevent the borrower from obtaining employment and repaying the loan; or

"(B) extraordinary circumstances make withholding such transcripts unjust or improper.".

### SEC. 33. RESTRICTIONS ON INSTITUTIONS PROMOTIONAL ACTIVITIES.

(a) AMENDMENT.—Section 487(a) of the Act (20 U.S.C. 1094(a)) is further amended by adding at the end thereof the following:

"(12) The institution does not—

"(A) use any independent contractor or any person other than salaried employees of the institution to conduct any canvassing, surveying promotion, or similar activities;

"(B) use any contractor or any person other than salaried employees of the institution to make final determinations that an individual meets the institution's admissions requirements or the criteria of eligibility for financial aid; or

"(C) pay any commission, bonus, or other incentive payment to any person making such final determination;

except that this paragraph shall not prohibit a volunteer, independent contractor, or person other than a salaried employee from being reimbursed for actual expenses related to activities described in subparagraph (A).".

(b) Effective Date.—The amendment made by subsection (a) shall not prohibit an institution from continuing to comply with the terms of any contract entered into on or before June 24, 1988, during the period ending (1) on the date of the expiration of such contract, or (2) 12 months after the date of enactment of this Act, whichever is sooner.

### SEC. 34. LIMITATION, SUSPENSION, AND TERMINATION OF CONTRACTORS.

Section 487(c)(1) of the Act (20 U.S.C. 1094(c)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end thereof the following:

"(E) the limitation, suspension, or termination of the eligibility of an individual or organization to contract with any institution to administer any aspect of an institution's student assistance program under this part, or the imposition of a civil penalty under paragraph (2)(B), whenever the Secretary has determined, after reasonable notice and opportunity for a hearing on the record, that such organization, acting on behalf of an institution, has violated or failed to carry out any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this subparagraph shall exceed 60 days unless the organization and the Secretary agree to an extension, or unless limitation or termination proceedings are initiated by the Secretary within that period of time.".

### SEC. 35. GUARANTY AGENCY STUDY.

(a) Study Required.—The Secretary shall conduct a study and make recommendations relating to the appropriate actions to take in the event that one or more guaranty agencies becomes insolvent. In carrying out the study, the Secretary shall examine and make recommendations relating to—

(1) standards and procedures for allowing the Secretary to identify an agency that is insolvent;

(2) steps the Secretary might take to meet the immediate financial responsibilities of an insolvent agency and to assure its long-term survival if, in the judgment of the Secretary, such survival is in the best interests of borrowers, lenders, and institutions; and

(3) procedures for the Secretary to encourage the merger or termination of insolvent agencies whose survival is not deemed to be in the best interests of borrowers, lenders, and institutions, and the transfer of existing guaranty obligations to solvent agencies.

(b) Time for and Submission of Report.—The Secretary shall complete such study no later than six months after the date of enactment of this Act, and shall file his report, including specific recommendations, with the House Committee on Education and Labor and the Senate Committee on Labor and Human Resources.

(c) Limitation on Secretary.—The Secretary shall not issue regulations concerning the determination of guaranty agency insolvency and the remedies for such insolvency unless the Congress provides such specific authority upon receipt and consideration of such study.

### SEC. 36. COBRA TECHNICAL AMENDMENT.

(a) Amendment.—Section 16041 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) is amended—

(1) by striking out subsection (e);

(2) in subsection (f), by striking out "The amendment made by section 16034" and inserting in lieu thereof "The amendments made by sections 16033 and 16034"; and

(3) by redesignating subsection (f) as subsection (e).

(b) Effective Date.—The amendments made by subsection (a) of this section shall be effective as if enacted by the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272).

### SEC. 37. CLERICAL AND TECHNICAL AMENDMENTS TO THE HIGHER EDUCATION ACT OF 1965.

The Higher Education Act of 1965 is further amended—

(1) in section 312(c)(2) (20 U.S.C. 1058(c)(2)), by inserting "such" before "second preceding fiscal year";

(2) in section 332(b)(5) (20 U.S.C. 1065(b)(5)), by striking out "year" the first place it appears;

(3) in section 411B(g)(5)(B) (20 U.S.C. 1070a-2(g)(5)(B))—

(A) by striking out "effective family income" each place it appears and inserting "discretionary income"; and

(B) by striking out "subsection (d)" and inserting "subsection (f)";

(4) in section 411C(f)(5)(B) (20 U.S.C. 1070a-3(f)(5)(B)), by striking out "effective family income" and inserting "discretionary income";

(5) in section 411D(f) (20 U.S.C. 1070a-4(f))—

(A) by striking out "effective family income" in paragraph (1) and inserting "discretionary income"; and

(B) by striking out "subsection (c)" each place it appears in paragraphs (1) and (2) and inserting "subsection (e);

(6) in section 411F(2) (20 U.S.C. 1070a-6(2)), by striking out "including amount" and inserting "including amounts";

(7) in section 411F(9)(B) (20 U.S.C. 1070a-6(9)(B)), by striking out "Student" and inserting "student";

(8) in section 413D(d)(3)(C) (20 U.S.C. 1070b-2(d)(3)(C)), by striking out "three-fourths in" and inserting "three-fourths of";

(9) in section 427(a)(2)(G)(i) (20 U.S.C. 1077(a)(2)(G)(i)), by striking out "system," and inserting "system";

(10) in section 428C(c)(3)(A) (20 U.S.C. 1078-3(c)(3)(A)), by inserting "be" before "equal to";

(11) in section 428E(a)(1) (20 U.S.C. 1078-5(1))—

(A) by inserting "(A)" after "except that" the first place it appears; and

(B) by striking out "except that" the second place it appears and inserting ", and (B)";

(12) in section 435(c)(1) (20 U.S.C. 1085(c)(1)), by striking out "section 481(d)" and inserting "section 484(d)";

(13) in section 435(d)(2) (20 U.S.C. 1085(d)(2))—

(A) by striking out "institutions" in subparagraph (C) and inserting "institution"; and

(B) by indenting the matter following subparagraph (D) two em spaces;

(14) in section 435(d)(3) (20 U.S.C. 1085(d)(3)), by striking out "section 435(o)" and inserting "subsection (l) of this section";

(15) in section 454(a)(3)(C) (20 U.S.C. 1087d(a)(3)(C)), by striking out "fourth and fifth" and inserting "fourth or fifth";

(16) in sections 462(a)(1) and 462(a)(2)(D) (20 U.S.C. 1087bb(a)(1),(a)(2)(D)), by striking out "institution which" and inserting "institution";

(17) in section 464(c)(2)(A)(iv) (20 U.S.C. 1087dd(c)(2)(A)(iv)), by inserting "Service" after "Domestic";

(18) in section 465(a)(2)(D) (20 U.S.C. 1087ee(a)(2)(D)), by striking out "services" and inserting "service";

(19) in the table contained in section 475(c)(2) (20 U.S.C. 1087oo(c)(2))—

(A) by striking out "less than $15,000 or" and inserting "less than $15,000"; and

(B) by striking out "$15,000 more" and inserting "$15,000 or more";

(20) in the table contained in section 475(c)(4) (20 U.S.C. 1087oo(c)(4))—

(A) by striking out "substract" and inserting "subtract"; and

(B) by striking out "1,430" and inserting "$1,430";

(21) in section 475(e) (20 U.S.C. 1087oo(e)), by striking out "section 479" and inserting "section 478";

(22) in section 476(b)(1)(D) (20 U.S.C. 1087pp(b)(1)(D)), by striking out "title 28" and inserting "title 38";

(23) in the table contained in section 477(b)(4) (20 U.S.C. 1087qq(b)(4)), by striking out "1,430" and inserting "$1,430";

(24) in the last sentence of section 481(b) (20 U.S.C. 1088(b)), by striking out "section 413(e)" and inserting "section 435(b)";

(25) in the last sentence of section 483(a)(1) (20 U.S.C. 1090(a)(1)), by striking out "that is" and inserting "that are";

(26) in section 484 (20 U.S.C. 1091)—

(A) by redesignating the subsections (c) through (e) (as added by section 121(a)(3) of the Immigration Reform and Control Act of 1986) as subsections (h) through (j), respectively;

(B) by inserting the following headings after the subsection designation of each such redesignated subsection:

(i) subsection (h): "IMMIGRATION STATUS VERIFICATION REQUIRED.—";

(ii) subsection (i): "LIMITATIONS ON ENFORCEMENT ACTIONS AGAINST INSTITUTIONS.—"; and

(iii) subsection (j): "VALIDITY OF LOAN GUARANTEES FOR LOAN PAYMENTS MADE BEFORE IMMIGRATION STATUS VERIFICATION COMPLETED.—";

(C) in subsection (i), as so redesignated, by striking "(c)(4)(A)(ii)", "(c)(4)(B)(ii)", and "(c)(5)(B)" in paragraphs (2), (3), and (4), respectively, and inserting "(h)(4)(A)(ii)", "(h)(4)(B)(ii)", and "(h)(5)(B)", respectively;

(D) in subsection (j), as so redesignated, by striking "subsection (c)" both places it appears and inserting "subsection (h)"; and

(E) in such subsection, by striking out "date of" and inserting "date";

(27) in section 491(h)(1) (20 U.S.C. 1098(h)(1)), by striking out "subtitle III" and inserting "subchapter III";

(28) in section 525(g) (20 U.S.C. 1105d(g)), by striking out "subpart" and inserting "part";

(29) in section 557 (20 U.S.C. 1111f), by striking out "part B of this title" and inserting "part B of title IV of this Act";

(30) in section 558(a)(6) (20 U.S.C. 1111g(a)(6)), by striking out "pre-school, education" and inserting "pre-school education";

(31) in section 571(g) (20 U.S.C. 1115(g)), by striking out "subpart" each place it appears and inserting "part";

(32) in section 622(a)(6) (20 U.S.C. 1132(a)(6)), by striking out "language an area studies" and inserting "language and area studies";

(33) in section 762(a) (20 U.S.C. 1132g-2(a)), by striking out "Secretary notwithstanding" and inserting "Secretary, notwithstanding";

(34) in section 762(h) (20 U.S.C. 1132g-2(h)), by striking out "subcontractors or any project" and inserting "subcontractors on any project";

(35) in section 764(b)(3)(B) (20 U.S.C. 1132g-3(b)(3)(B)), by striking out "anyone" and inserting "any one";

(36) in section 764(e) (20 U.S.C. 1132g-3(e)), by striking out "member" and inserting "members";

(37) in section 802(d)(1)(B) (20 U.S.C. 1133a(d)(1)(B)), by striking out "has demonstrated" and inserting "as demonstrated";

(38) in section 942(b)(2) (20 U.S.C. 1134m(b)(2)), by inserting a period at the end thereof;

(39) in section 1045(a) (20 U.S.C. 1135d-4(a)), by striking out "sexual, geographic," and inserting "gender, geographic,"; and

(40) in section 1204(a) (20 U.S.C. 1144a(a)), by striking out "Trust Territories" and inserting "Trust Territory".

**SEC. 38. INAPPLICABILITY TO OUTSTANDING APPROPRIATIONS.**

None of the provisions of this Act or of the amendments made by this Act shall apply with respect to funds appropriated prior to the date of enactment of this Act.

## Committee Action

On February 2 and 3, 1988, the Subcommittee on Postsecondary Education of the Committee on Education and Labor held a hearing regarding the problem of student loan defaults. Witnesses providing testimony included: Robert Albright, President, Johnson C. Smith College; Britta Anderson, Director of Federal Affairs, Vermont Student Assistance Corporation; Robert Atwell, President, American Council on Education; Stephen Biklen, Vice President, Citibank; Thomas Butts, Government Relations Office, University of Michigan; Rafael Cortada, President, University of the District of Columbia; Jerry Davis, Director of Research, Pennsylvania Higher Education Assistance Agency; Arthur DeConciliis, Owner, Pittsburgh Beauty Academy; Rene Dubay, Director, Talent Search, Montana Commission of Higher Education; Lawrence Earle, Chairman, Education Dynamics, Inc.; Robert Evans, Director of Financial Aid, Pennsylvania State University; Vernetta Fairley, Director of Financial Aid, Pearl River Community College; William Gainer, Associate Director, General Accounting Office; Richard Hawk, President, Higher Education Assistance Foundation; Samuel Kipp, Executive Director, California Student Aid Commission; Mary Preston, Legislative Director; U.S. Student Association; and Gregory

Stringer, Vice President, Student Loan Division, Chase Manhattan Bank.

On June 13, 1988, Representative Pat Williams (D-MT), Chairman of the Subcommittee on Postsecondary Education, introduced H.R. 4798, the Student Default Initiative Act of 1988, a bill to amend the Higher Education Act of 1965 to reduce the default rate on student loans under that Act, and for other purposes. The bill was referred to the Subocmmittee on Postsecondary Education.

Hearings on legislation addressing the topic of student loan defaults were held by the Subcommittee on Postsecondary Education on June 14 and 16, 1988. Those testifying on June 14 included: The Honorable William Bennett, Secretary, U.S. Department of Education; Bruce Carnes, Deputy Under Secretary for Planning, Budget and Evaluation, U.S. Department of Education; The Honorable James Jontz, Member, U.S. House of Representatives; The Honorable Tim Penny, Member, U.S. House of Representatives; Thurston Manning, President, Council on Postsecondary Accreditation; Freddie W. Nicholas, President, John Tyler Community College; Mary Preston, Legislative Director, U.S. Student Association; Kenneth Ryder, President, Northeastern University; David Shefrin, President, Computer Processing Institute, Inc.; and Niara Sudarkasa, President, Lincoln University.

The June 16 witnesses included: Susan Armstrong, Director of Financial Aid, William Jewell College; Robert Atwell, President, American Council on Education; William Banks, Vice President, Chemical Bank; Stephen Blair, Executive Director, National Association of Trade and Technical Schools; James Craig, Director of Financial Aid, Montana State University; Gail Donoway, President, Potomac Academy of Hair Design; Richard Hawk, President, Higher Education Assistance Foundation; Kathleen Kennedy, Assistant Vice President, Citizen's Bank; Sammuel Kipp, Executive Director, California Student Aid Commission; C. Peter Magrath, President, University of Missouri; Mrs. Gene Miller, Financial Aid Director, Pasadena City College; David Strada, Director of Student Financial and Regulatory Affairs, The Katherine Gibbs Schools; and Philip White, Vice Chancellor, New Jersey Department of Higher Education.

Others providing testimony were: the Association of Urban Universities; the Minnesota Higher Education Coordinating Board; the Association of New Jersey County College Student Financial Aid Administrators; and the Ohio Diesel Technical Institute.

On June 30, 1988, the Subcommittee on Postsecondary Education met in open session and favorably reported H.R. 4798, with amendments, to the Committee on Education and Labor by voice vote.

On July 7, 1988, Mr. Williams introduced H.R. 4986, The Student Default Initiative Act of 1988, (hereinafter referred to as "the bill") that incorporated the amendments that were accepted by the subcommittee.

On July 12, 1988, the Committee on Education and Labor met in open session and considered H.R. 4986. The bill was then ordered reported by the Committee on Education and Labor by a voice vote.

## BACKGROUND AND NEED FOR THE LEGISLATION

The need for H.R. 4986 grows out of the need to address two major problems confronting our student aid programs; the growing cost of student loan defaults and the increasing imbalance between grant and loan assistance. Thus, the fundamental purpose of this legislation is to reduce the number and cost of loans in default and work toward restoring the balance between grants and loans.

In 1965, when Congress enacted the Higher Education Act, it was responding to the needs of both institutions and students. In addition to providing institutional assistance to help with the large increases in the numbers of students eligible to attend college, the Act was designed to provide financial assistance to help low-income individuals cope with increases in the costs of attenting college. It established Educational Opportunity Grants for students from low-income families as a way to ensure that these students had access to postsecondary education opportunities. The Act also established an interim program of federally guaranteed, reduced-interest, student loans, and it stimulated and assisted the establishment of similar State guaranteed student loan programs. This GSL program was intended to serve students from middle income families who might not qualify for existing but limited aid provided under the National Defense Education Act or the new educational opportunity grants.

It is clear that the Congress intended to help improve student access to postsecondary education by creating a two-pronged approach: a loan program to provide assistance to middle-income families and a grant program to help low-income families. Further, it was the intent of the Congress that these two initiatives act in tandem, and not in isolation.

In the 22 years since the dual grant/loan policy was established, there have been changes, stimulated by economic, demographic, and ideological forces. One change was the creation of the Pell Grant program in 1972 as the student aid foundation for low-income students. Another was the enactment of the Middle Income Student Assistance Act in 1978 which expanded participation in the GSL program by eliminating any determination of need as a precondition for eligibility. However, since 1981 there has been a significant reduction of middle-income participation in the GSL program. The 1981 Omnibus Budget Reconciliation Act restricted eligibility for students whose annual family income was $30,000 or higher; students from these families had to undergo a needs test, and in 1986, the law was changed again to require that all regular GSL borrowers undergo a needs test. The effect of these two provisions has been to significantly restrict the regular GSL eligibility of students from middle-income families beginning in the fall of 1988. As a consequence of these changes, coupled with continued postsecondary cost increases and no significant growth in the size of Pell Grant awards, more and more students, especially those students with limited resources, are relying on loans to finance their education.

With this increase in borrowing has come a corresponding increase in defaults, and the costs of these student loan defaults have been the object of growing scrutiny. Recently, these costs have escalated dramatically, and it is estimated that approximately half (47 percent) of the FY88 Guaranteed Student Loan (GSL) Program costs of $3.4 billion will be used to pay default claims. According to the Department of Education, the $1.6 billion in FY88 default costs represents a 25 percent increase over FY87 default costs. Furthermore, there has been dramatic growth in total annual loan volume, up from $3.0 billion in 1979 to $8.6 billion in 1986, and this has resulted in large increases in loans entering repayment status and thus becoming subject to potential default. It is important to note a portion of the increase in GSL costs is driven by the volume of loans entering repayment and not by a significant increase in the default rate. In fact, according to the department of Education, the default rate has remained relatively stable. In fiscal year 1978, the GSL default rate was 10.0 percent. In 1985, the rate had dropped to 8.9 percent. H.R. 4986 is designed to reduce the overall cost of the program by reducing the number of loans that enter default.

The Secretary of Education and the Congress have respond to the public concern for the large number of loans entering default. In November, 1987, the Secretary of Education announced a plan to reduce defaults by terminating from student aid programs any institution that was unable to reduce its default rate to 20 percent by 1991. The Secretary also initiated program reviews at institutions with default rates in excess of 50 percent. In its version of the Trade bill, the Senate addressed the issue of defaults by requiring institutions to maintain a 25 percent default rate to participate in the Guaranteed Student Loan programs. In the House, several members, including Mr. Ford (MI), Mr. Owens (NY), Mr. Jontz, Mr. Coleman (MO) and Mr. Armey, have introduced default reduction legislation.

This past January, the Subcommittee on Postsecondary Education began the process of developing default reduction legislation by gathering a group of experts together to first outline the problem and then develop a series of recommendations to reduce the number of student loan defaults. The report of this group, known as the Belmont Task Force, included proposals offered by Members of this Committee, and suggestions from the higher education community, and served as the basis for two days of Subcommittee hearings on this issue. A consensus bill was then developed by the Subcommittee, and two more days of hearings were held to discuss the consensus bill. This legislation, H.R. 4986, reflects the recommendations and comments contained in the hundreds of letters received by the Committee in support of default reduction legislation.

## EXPLANATION OF H.R. 4986

H.R. 4986 is an attempt to develop a reasonable and constructive approach to the issue of student loan defaults. It is a bill that asks all of the participants in the student aid system—students, schools, lenders, state agencies, and the Department of Education—to do more than they are currently doing to address this loan default issue. And it does this without unduly penalizing students or institutions in a way that is inconsistent with the historical federal commitment to access to higher education.

The Committee notes that the Guaranteed Student Loan Program has recently been renamed the Stafford Loan Program in honor of Senator Robert T. Stafford of Vermont. Because this change has been made only recently, the Committee continues to refer to the program as the Guaranteed Student Loan Program in this report.

### PELL PROVISIONS

H.R. 4986 attempts to make Pell funding more definite and certain by doing three things. These three Pell provisions will become effective in Fiscal Year 1990.

First, the bill repeals the Pell reduction formula that has permitted the Secretary of Education to reduce Pell awards below the levels approved by the Congress. Second, H.R. 4986 gives the Secretary limited authority to borrow from subsequent years' appropriations to cover those situations where funding might not be sufficient to cover Pell expenses in a previous fiscal year. Finally, H.R. 4986 is sensitive to the fiscal realities currently facing the Congress. It reduces the currently authorized Pell maximum awards to bring these awards more in line withe recent appropriations history.

The Committee notes that during the past five years the Pell appropriation has increased by an average of $300 million annually. H.R. 4986 would increase annual Pell spending by less than that amount. In fiscal year 1990, Pell spending would increase by $154 million in budget authority and $30 million in outlays above the CBO baseline. In fiscal year 1991, increases above the CBO baseline would be $136 million in budget authority and $147 million in outlays. And if the CBO baseline was adjusted to take into account the House passed fiscal year 1989 appropriation for Pell, the increase over the CBO baseline under H.R. 4986 would be even less. Thus, Pell funding in this bill would be totally in line with what has been the recent history of that program's appropriations, and with what appears to be the direction taken in the House passed the Fiscal Year 1989 Labor-HHS-Education appropriations bill.

The Committee wants to stress that these Pell provisions will in no way bypass the appropriations process. Pell funding will still be subject to annual appropriations. Any changes in Pell awards will have to be made by the Congress. But unlike the past, if the Department of Education wants to reduce Pell awards, it will have to first get Congressional approval. H.R. 4986 will no longer permit the Department to reduce Pell awards through an automatic formula process. Congress itself will have to make those reduction decisions.

The Committee wants to emphasize the essential importance of these Pell provisions to any comprehensive loan default bill. The original Congressional logic behind federal student aid policy was that grants should be the principal method of financing postsecondary education for students from low income families. However, just the opposite has been allowed to occur, and today the Committee finds that loans have become the primary means for low-income students to finance a postsecondary education. Ten years ago, grants comprised 80 percent of the average student aid package, with loans making up less than 20 percent. By 1980, loans jumped to 41 percent of a student's aid package. Today, a student aid package is comprised of more than 50 percent loans, leaving grants to make up the less than 48 percent of the average aid package. The last decade has seen a complete reversal in the relationship of grants and loans. The Committee strongly believes that any loan default bill that does not contain a grant provision is not a comprehensive piece of legislation, and by its very nature will not be addressing the entire problem surrounding this extremely complex issue. The Committee cannot overemphasize the necessity of making grant funding more certain as a way of addressing the loan default issue. The growing imbalance between grant and loan funding must be stopped, and the Pell provisions of H.R. 4986 are the first step in that direction. Currently, first year students are eligible for a $2625 Guaranteed Student Loan and only a $2200 Pell Grant. H.R. 4986 will raise the maximum Pell award to provide first year low-income students with up $2500 by 1991, thereby beginning the long process of restoring a greater balance between the grant and loan programs.

Section 3 of the bill contains another Pell Grant provision. This section limits a student's Pell Grant eligibility such that for students enrolled in less than four year programs, eligibility is limited to the length of the program plus one year or the portion of the academic year normally required to complete the program. For students enrolled in programs normally requiring more than four academic years, eligibility is limited to six (6) years. The Committee intends that such limitations on eligibility should be looked at in the aggregate such that if a student subsequently were to enroll in a longer program, the longer period of aggregate eligibility would apply. The Committee intends that this section will become effective upon the enactment of H.R. 4986.

### TREATMENT OF STUDENT INCOME AND ASSETS

Section 4 of the bill prevents the double counting of income in determining a student's contribution by excluding cash on hand or other property from being counted as an asset, except to the extent that such cash on hand or property exceeds the amount that the student would have to contribute from available income.

### INDEPENDENT STUDENT DEFINITION

Section 5 of the bill modifies the definition of an independent student. The implementation of the independent student definition as authorized under the 1986 Amendments to the Higher Education Act resulted in some confusion and unintended consequences. As amended in 1986, the definition would grant independent status to any third or fourth year student who could demonstrate at least $4,000 in resources, including student aid, in the prior two years and who had not been claimed as a dependent in the prior two years. H.R. 4986 bill would modify the independent student definition to avoid the potential for reclassifying large numbers of otherwise dependent students at high cost institutions as "independent" solely based on aid, while grandfathering in students considered independent under the prior definition. The Committee notes that this amendment is consistent with the intent of the independent student definition as amended under the 1986 Amendments to the Higher Education Act.

### TREATMENT OF VETERANS BENEFITS

Section 6 of the bill provides for the treatment of Veterans Benefits in determining GSL eligibility such that any Veterans Benefits paid to a student for enrollment in a postsecondary education program shall be considered as a resource in determining aid eligibility.

### SPECIAL DEFERMENTS

Section 7 of the bill defers a student's GSL obligation for twelve months if the institution being attended ceases operation. This measure was conceived due to the recent rash of institutions closing, predominantly trade and proprietary schools, and declaring bankruptcy. While not limited to such schools and circumstances, the Committee believes that filing for bankruptcy is the point when "closing or other cessation of activities" has occurred.

It is the Committee's understanding that it is incumbent upon the student to demonstrate that he or she is "seeking to enroll in a course of study" if the lender so requests. While this should be done in good faith, the lender can demand such proof as copies of applications to an institution, verbal confirmation from appropriate school official(s) or other such means. There is not a minimum or a maximum number of institutions that the student must apply to in order to be eligible for the deferment. The deferral commences upon notification by the student to the lender, within the parameters of the GSL loan agreement.

It is also the Committee's understanding that this provision shall apply to all borrowers in the GSL programs and not only to those who borrow after the enactment of this section.

### BORROWER NOTIFICATION OF LOAN SALE

Section 8 of the bill requires lenders to notify borrowers promptly, if borrowers are in the grace period or in repayment status, of the sale or transfer of the loan prior to the beginning of the repayment period if the sale or transfer results in the borrower being required to make payments, or to direct other matters concerning the loan to persons other than to whom such payments or matters were directed before the sale or transfer. The Committee wishes to stress that the term promptly should be interpreted in a manner that allows the borrower to receive such notification as quickly after the sale or transfer as possible, but in no case should promptly be interpreted to mean a period of time longer than 30 days after such sale or transfer.

In addition, H.R. 4986 requires that any such notification shall include the phone number and address of the holder through which the borrower can obtain information regarding loan repayment. In addition, upon the request of the last institution the borrower was attending prior to repayment, the guaranty agency shall provide that institution with the same information.

### PRECLAIMS ASSISTANCE

Section 9 of the bill requires each guaranty agency participating in the Guaranteed Student Loan program to provide preclaims assistance for default prevention on all loans. There has been some question as to whether preclaims assistance is already being performed by all guaranty agencies. The Committee intends that this section be viewed as requiring all guaranty agencies participating in the Guaranteed Student Loan program to have a program of preclaims assistance for default prevention on all loans.

### NOTIFICATION OF LOAN STATUS

Section 10 of the bill requires each guaranty agency to notify institutions of higher education of the loan status of those institutions' former students including information as to when a former student enters default or repayment.

### LOAN CONSOLIDATION PROVISIONS

Section 11 of the bill makes delinquent and defaulted loans eligible for consolidation if by consolidating those loans a borrower will be able to enter repayment. The Committee believes many borrowers who want to repay their loans are oftentimes unable to repay them because the debt burden contained in the loan cannot be repayed under normal GSL terms and conditions. The Committee believes that loan consolidation, which enables a borrower to combine loans into a single repayment schedule and stretch out loan repayments over a longer period of time than the normal GSL repayment period, and which can have income sensitive repayment terms, has the potential of enabling struggling borrowers who want to repay their loans to find a way by which those loans can be repaid. And the committee urges lenders and holders of loans to permit loan consolidation where such consolidation could enable potential or current defaulters to enter repayment status.

Section 12 of the bill permits married students to consolidate their loans. The Committee notes that loans consolidated under this provision will continue to be treated as a single loan without regard to any subsequent change in their marital status of the married students who entered into consolidation.

### STUDENT LOAN DEFAULT AMNESTY PROGRAM

Section 13 of the bill establishes an amnesty program for student loan defaulters by which a borrower with a defaulted loan can fully repay the debt without penalty. In addition, the borrower's default shall be removed from credit bureau records and the borrower's student aid eligibility shall be restored. This section also permits the Secretary to sell to an eligible lender the loans of students who have made 12 consecutive payments on a defaulted loan or students who are in default because of a clerical error. These students shall, after making 12 consecutive student loan repayments, have their student aid eligibility restored. The Committee wishes to emphasize that the amnesty program will be offered on a one time only basis.

The success of the program will very much depend upon the actions taken by the Department of Education to widely publicize the amnesty program. It is the intent of the Committee that the Secretary not only use bulletins and posters to announce the program, but also employ the use of public service announcements on television and radio to make borrowers aware of their opportunity to use the program. Additionally, the Committee encourages student loan guaranty agencies, lenders, and Sallie Mae to publicize the program and to encourage their defaulted borrowers to use it.

The Committee recognizes that some defaulters in the process of beginning repayment may have concerns about doing so prior to the amnesty program, which would offer attractive incentives for participation. However, it is the Committee's intent that funds collected as a result of the amnesty program will outweigh any such decision by a proportionally small number of borrowers to delay repayment plans and take advantage of the amnesty program.

### DISBURSEMENT OF GSLS

Section 14 of the bill establishes requirements for multiple disbursement of student loans. Under this section, lenders will not be able to release the second disbursement of eligible Guaranteed Student Loans until one half of the academic year has been completed. Such loan release will also have to be in accordance with a schedule provided to the lender by the educational institution.

This section also establishes new disbursement procedures for first year students who are first time borrowers. For these students, institutions may not release the loan until that individual has completed 15 days of classes and the institution has certified that the student continues to be enrolled at the institution and remains in good academic standing. Furthermore, the institution must certify that these students have received an entrance interview and have been counseled with respect to the terms of the loans. Such entrance interviews may take place up to 90 days prior to the first day of the period of enrollment.

In implementing this new 15 day period of delayed disbursement, schools could receive Guaranteed Student Loan checks from lenders before the 15 day period had either begun or expired. However, schools would not be allowed to negotiate the check until after the 15 day period of enrollment has expired. The Committee intends the term negotiate to mean "cash" the check.

For other students not subject to the 15 day delayed disbursement procedure, H.R. 4986 requires loans to be disbursed in accordance with a schedule provided by the institution, but in no case shall the loan be sent from the lender to the school more than 30 days before the beginning of the period of enrollment for which the loan is made.

H.R. 4986 also authorizes the withholding of the second disbursement of the Guaranteed Student Loan of a withdrawing student. Any such withheld disbursement shall be credited to the borrower's loan and treated as a prepayment. H.R. 4986 does permit the use of the second disbursement to cover expenses already earned by the institution if the lender is notified by the institution that such disbursement is needed to cover costs already earned by that institution.

H.R. 4986 authorizes institutions to cancel or reduce the disbursement of a Guaranteed Student Loan for students who receive additional financial aid from other sources, which, in combination with the loan, would result in an overaward situation. The Committee has heard that students quite often receive additional financial aid, particularly non-loan aid, throughout the academic year, and quite often this additional aid can result in an overaward situation, thereby requiring some form of assistance to be returned. The Committee intends that students who have multiple sources of aid in their student aid packages should have their needs first met through as much non self-help aid as possible. If additional non self-help aid becomes available to the student during the academic year, the committee intends that self-help aid should be returned first in order to avoid an overaward situation. If such self-help aid includes a Guaranteed Student Loan, the Committee intends that the institution shall return that portion of the loan that would result in an overaward situation. Any portion of the loan that is returned to the lender shall be credited to the borrower's loan and treated as a prepayment.

H.R. 4986 also provides for the aggregation of multiple loans in which all loans issued for the same period of enrollment shall be considered as a single loan. The bill also provides an exclusion from the multiple disbursement requirements for PLUS, Consolidation or Foreign Study loans.

In an effort to insure uniformity in the content of loan information provided to students, H.R. 4986 authorizes the Secretary of Education to contract for the production of video tapes for use in entrance and exit interviews. Such video tapes should not be viewed by the institutions as the only way they can provide entrance and exit interviews. Institutions are urged by the committee to conduct face-to-face interviews whenever possible. The Committee intends that any tapes produced should clearly demonstrate to students that the loans they are being informed about are federal loans. The Secretary shall contract for updated video topics as is necessary to allow for changes in the law or administration of the program.

### PILOT REPAYMENT PROGRAM

Section 15 of the bill requires the Secretary to implement a pilot program where students would begin $10 payments on their student loan while they are in school. Payments would be held in escrow by the institution and credited to lenders by the institution twice a year.

The Committee intends that the pilot program will be initiated only after an active expression of interest by institutions and that any such pilot program will include institutions representative of all sections of higher education.

### REPORTING OF DELINQUENT LOANS

Section 16 of the bill requires lenders to report delinquent loans to credit bureaus at 90 days of delinquency. Lenders must also notify students that the delinquency will be reported. The Committee wants to emphasize that this provision in no way should be interpreted as changing any of the requirements of the Fair Credit Reporting Act. Under that act agencies that report information to credit bureaus have an affirmative responsibility to correct inaccurate information and to update information when changes in circumstances require such an update. The Committee expects that these requirements will continue to be fulfilled under this information exchange procedure contained in this section of the bill. This section also requires that lenders must include in their disclosure notices to students both before disbursement and before repayment an explanation of the availability of deferments, and a statement that the borrower should notify the lender of the reasons for any failure to make a payment when it is due.

### GUIDELINES FOR INSTITUTIONAL ENCOURAGEMENT OF LOAN REPAYMENT

Section 17 of the bill requires the Secretary to publish guidelines for institutions to use in encouraging student loan payment. Such guidelines shall outline the legal restrictions relating to disclosing information on borrowers, the Fiar Debt Collections Act, and other applicable laws. Also included shall be a model program, with sample letters and phone scripts for use by the institution in a format that facilitates easy replication of these documents.

### DEFAULT REDUCTION AGREEMENTS

Section 18 of the bill amends Part B of Title IV by adding a new section 430B entitled "Default Reduction Agreement" requiring:

The new section 430B(a) requires the Secretary to, within three months of the enactment of this section, submit to the House and Senate authorizing committees a plan to establish a comprehensive schedule of program reviews for all eligible institutions, lenders and guaranty agencies participating in the Guaranted Student Loan programs. The plan will be designed to accomplish reviews of all participating institutions, lenders, and guaranty agencies within five years. The plan shall include estimates of budgetary and personnel requirements. The Committee shall have 30 days for comment.

The new section 430B(b) requires the Secretary to develop and publish an annual default report to the Congress beginning on December 31, 1988. The report shall include: 1) the annual default rate for all institutions participating in the student loan program; 2) the annual dollars in default for all institutions participating in th student loan program; 3) the annual default rate and dollars in default for all participating lenders and guaranty agencies; 4) the average national cumulative default rate; 5) the cohort default rate for all institutions participating in the program; and 6) the annual program default rate.

The new section 430B(c) requires that within 90 days of publication of the report, the Secretary shall begin to conduct default reviews at institutions in the top five (5) percent of institutions ranked by 1) cohort default rate, excluding institutions with fewer than 100 loans; or 2) annual dollars in default, excluding those institutions whose annual default rate is less than the average national cumulative default rate of all institutions. For the purposes of calculating the top five percent in either category, if the Secretary waives the requirement or if an institution is currently involved in a default reduction agreement, such an institution shall not be considered in the top 5 percent calculation.

The new section 430B(d) specifies that a default review shall include but not be limited to: the administrative practices of the institution with regard to Title IV programs; a financial audit of the institutions fiscal practices and record keeping; the composition of the student population served by the institution; the recruiting and admissions, advertising, and marketing policies of the institution; the administration of the "ability to benefit" provision; the number of students who have left the institution other than after graduation, including leave of absence, and academic suspension; program completion and participation rates; the financial aid counseling policies of the institution; and other activities that relate to the reduction of defaults.

The new section 430B(e) requires the Secretary to initiate the negotiation of a Default Reduction Agreement with the institution, within 30 days of the completion of the default review, based on the finding of the review.

The new section 430B(f) specifies that the conditions of the Default Reduction Agreement shall reflect both the institution's and the reviewers' recommendations on specific actions to be taken by the institution that shall lead to the reduction of the institution's default rate and/or the reduction of the number of dollars in default. Such an agreement should reflect the characteristics of the institution and may include, but is not limited to: additional training in the administration of the Title IV programs; access to technical assistance in the operation of the Title IV programs; required entrance and exit interviews; requirements that the institution establish contact with the student during the grace period; requirement that the institution collect additional information from the borrower; and periodic reporting on the status of students receiving Title IV aid at the institution.

The Committee intends that both the Secretary and institutions make a good faith effort to negotiate this agreement. The Committee notes that the specific actions to be taken by the institution as required by the Default Reduction Agreement should focus on those actions that will address problems raised by the Default Review. Although the Default Reduction Agreement is based on and is consistent with both the institution's and the reviewers' recommendations, in no case does the institution have a veto right on specific remedial actions to be taken. However, the Committee encourages the Secretary to consider seriously the ability of the institution to implement specific recommendations. In the event that an institution refuses to enter into or substantially comply with a Default Reduction Agreement, the Secretary shall initiate Limitation, Suspension, and Termination proceedings.

The new section 430B(g) provides the Secretary authority to waive the requirement of a Default Reduction Agreement in the event that, in the judgement of the Secretary, the institution's default rate would not be significantly reduced through the implementation of a Default Reduction Agreement.

The new section 430B(h) specifies that a Default Reduction Agreement last no longer than three years, and shall provide for a minimum of one evaluation by the Department of Education during the duration of this agreement. If, during the institutions interim evaluation or evaluations it is determined that the institution no longer falls into the trigger category, the Default Reduction Agreement is considered null and void.

The new section 430B(i) provides that upon completion of the Default Reduction Agreement, the Secretary shall assess the institution's compliance with the Default Reduction Agreement. In the event that the institution has fully complied with the agreement and remains in the top 5 percent in either annual default rate or annual dollars in default, the Secretary shall exempt the institution from the requirement that it must enter into Default Reduction Agreement for a period not to exceed three years.

The new section 430B(j) authorizes the Secretary to implement Limitation, Suspension, and Termination (L,S,&T) proceedings of an institution's eligibility to participate in the Title IV programs if the institution fails to enter into a default reduction agreement, or fails to substantially comply with such agreement. This section also prohibits any L,S,&T actions that are initiated solely on the basis of a default rate.

The new section 430B(k) defines the term "cohort default rate", as the percentage of total matured loans on which borrowers have defaulted in the subject fiscal year as determined by dividing: the total claims paid on loans entering repayment during the subject fiscal year and the year following the subject fiscal year by the total amount of loans in repayment that entered repayment in the subject fiscal year. The term "annual dollars in default" is defined as the total principal and interest outstanding on loans on which claims payments have been made during the subject fiscal year.

### USE OF INSURANCE FUND FOR DEFAULT REDUCTION MANAGEMENT

Section 19 of the bill, adds a new subsection to specify the use of the insurance fund for default reduction management. The new section requires that the Department expend no less than $20 million and no more than $25 million of Guaranteed Student Loan collections on Default Reduction Activities. The allowable activities for which such funds may be expended include, but are not limited to; program reviews, audits, debt management programs, training activities, and such other management improvement activities approved by the Secretary.

The new section also requires the Secretary to submit a plan, detailing expenditures of these funds to Congress. At the end of each fiscal year the Secretary is also required to report the findings and activities concerning the expenditure of these funds to the Appropriations Committees and to House Committee on Education and Labor and the Senate Committee on Labor and Human Resources. H.R. 4986 also reauthorizes section 486 fo the Act which was inadvertently not authorized by the HEA conferees in 1986. It was the intent of the conferees that this section be authorized. This technical correction allows no less that $2 million be expended on section 486 training activities for student financial aid officers and others to promote greater accuracy in the administration of student financial assistance programs and in the promotion of information for students.

### THE IMPOSITION OF FINES FOR WILLFUL ERRORS

Section 20 of the bill permits the Secretary to impose fines on educational institutions as well as lenders and guarantors, for willful errors in administering federal student assistance programs and establishes that repeated violations shall be subject to penalty. This section further prohibits a lender or a guaranty agency from avoiding liability by correcting a violation after discovery by the Department of Education.

It is not the intention of the Committee to discourage lenders and guaranty agencies from correcting violations before such violations are discovered. However, the committee recognizes that in some instances, the degree of error, even after corrected, merits fine or penalty by the Secretary.

### NOTIFICATION OF GUARANTY AGENCY AND TOLL-FREE NUMBER

Section 21 of the bill requires lenders to inform students of the identity of their Guarantor and the toll-free number at which they can obtain information from the Guarantor regarding the status of their loan. This information shall be provided to the student at the time the loan is disbursed and when the loan enters repayment. This section also requires that a student be notified of availability of deferments before a student reaches 90 days of delinquency. Guaranty Agencies are also required to establish and publicize a toll-free telephone number to provide students with timely information about their loans.

### REQUIRE ACCREDITING AGENCIES TO INVESTIGATE EXCESSIVE DEFAULTS

Section 22 of the bill requires that, to be approved by the Secretary, accrediting agencies investigate excessive defaults as indicators of such institutional problems as high dropout rates or poor job placement rates. The Committee intends that the accrediting agency take these indicators into consideration in future reviews at the institution.

### EFFECT OF LOSS OF ACCREDITATION

Section 23 of the bill amends section 435 and 481 of the Act regarding the effect of loss of accreditation by adding a new subsection (k) to require that no institution be certified or recertified for program eligibility in the student aid programs if such institution has had its accreditation withdrawn, revoked or otherwise terminated for cause during the prior 24 months; or has withdrawn from accreditation voluntarily while under a show cause or suspension order during the prior 24 months.

An exception is made if such an institution's accreditation has been restored by the same accrediting agency which had previously accredited the institution prior to its withdrawal, revocation or termination or if such an institution has demonstrated its academic integrity to the satisfaction of the Secretary of Education.

The Committee intends that this section strengthen the hand of accrediting agencies in regulating the practices of institutions. Under current law, an institution is able to maintain Title IV eligibility when its accreditation is withdrawn, revoked, or otherwise terminated for cause by an accrediting agency simply by "shopping" for an accrediting agency that will offer an accreditation without regard to the prior question of practices. With the ability of an institution to move to an accreditor of lessor standards, it is difficult for an accrediting agency to hold institutions to a set of standards. By denying eligibility to institutions who attempt to "jump" accrediting agencies, this section shall help to increase the effectiveness of accreditation.

### TREATMENT OF AWARD YEAR COLLEGE WORK STUDY INCOME

Section 24 of the bill amends section 433(b) of the Act to permit students to earn income from any need-based employment of up to $200 above their determined need before the student is no longer eligible to receive subsidized College Work Study funds.

The Committee intends that this section eliminate the double counting of work study earnings by specifying that only need-based employment, or that employment that directly offsets educational expenses, be monitored throughout the year. Therefore, for the purposes of determining the student contribution for the succeeding year's award, only income that is generated by non-need based employment will be treated as a resource.

### RESTRICTION ON NEED ANALYSIS FOR PARENTS

Section 25 of the bill amends section 475 and 477 of the Act to require that, for the purposes of counting the number of family members who are attending college, a parent must be enrolled half-time in a degree or certificate program. The 1986 Amendments to the Higher Education Act allow parents to be included in the count of family members attending college in determining an expected family contribution. However, the amendments did not specify that the parent must be enrolled in a degree or certificate program. Therefore, a parent who was taking a continuing education course for self-improvement would be counted in the same manner as a parent enrolled in a degree program. This amendment specifies that the parent must be enrolled in a degree or certificater progrm. The Committee notes that this section is consistent with the intent of the 1986 Amendments.

### ADJUSTMENT FOR INDEPENDENT STUDENTS WITH DEPENDENTS

Section 26 of the bill amends section 479A of the Act to adjust the cost of attendance for independent students with dependents to include the costs of food and shelter for dependent care if the student's income is less than the standard maintenance allowance.

### TREATMENT OF NON-LIQUID ASSETS

Section 27 of the bill amends section 480 of the Act to exclude the net value of a family's principal residence, a family owned farm, or a family owned small business, for the purposes determining a student's eligibility for Guaranteed Student Loans under needs analysis.

### DEFINITION OF ACADEMIC YEAR

Section 28 of the bill amends Section 481(d) of the Act to define an academic year as 24 semester or trimester hours or units, or 36 qaurter hours or units; 720 clock hours of supervised training or 720 clock hours in a program of study by correspondence.

The Committee notes that this section was included in H.R. 4986 to begin to equalize the discrepency between the amount of academic credit, for federal student aid purposes, given to instruction provided in programs measured in clock hours a compared to those programs measures in credit hours. By reducing this discrepency, the incentive to measure programs in credit hours is eliminated. In addition, this section brings the Department of Education's measurements closer in line with the requirements of the Veterans Administration and Social Security Administration.

This section also clarifies the impact of state law or regulation on the authority of an institution to measure in either clock or credit hours unless the state specifically requires the institution to measure in clock hours or specifically prohibits the institution from measuring in credit hours.

The Committee recognizes that there may be institutional requirements affecting schools and students which aggravate the default problem. One example brought to the attention of the Committee is combination home study/resident training programs where the home study portion is required by the department eligility regulations to be a minimum of six months in length even though the course meets all other requirments for eligibility in the Guaranteed Student Loan program, *ie*. 300 or more clock hours. The purpose behind home study is to allow the student to proceed at his or her own pace, and the regulation imposes an artificial barrier that is detrimental to students who may have the ability and desire to proceed through home study at a faster pace. In response to this concern, H.R. 4986 provides the Secretary with the authority to waive criteria regarding the length of course if the program satisfies all requirements otherwise required by the Secretary.

The Committee intends that this section should not effect existing regulations regarding this issue.

### FEDERAL STUDENT ASSISTANCE REPORT

Section 29 of the bill amends section 483(f) of the Act to modify the Federal Student Assistance Report to require that only the source of Federal Assistance be indicated on the form rather than both the source and amount of assistance from each program. Concern has been expressed that indicating the amount of assistance on the Federal Student Assistance Report will lead to confusion among students between this document and their official award letter. Accurancy in telling students the amount of their student aid would also be difficult since student awards are frequently modified several times in the course of a single year as other non-federal aid becomes available, students modify the amount of their part-time employment under College Work Study or as their needs to borrow increase or decrease.

### ABILITY TO BENEFIT

Section 30 of the bill amends Sections 484(d) of the Act to require *both* testing and counseling for students who are admitted to a program under the Ability To Benefit provision. This section also requires that ability to benefit tests do not discriminate against persons with limited English proficiency.

Assessments under this Act shall be developed and administered in such a manner as to provide a fair and accurate assessment of ability or aptitude. As was noted during the Committee consideration, title IV of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1974, and related regulations already provide guarantees that such tests shall be free from racial, cultural, gender, or disability bias. However, in at least the case of students with limited English proficiency, practical experience has shown the need for additional caution and clarity. Alternative forms of assessment shall be made available for otherwise qualified applicants when appropriate tests and testing procedures are not available. When modifications of assessment procedures are made, the educational institution shall maintain documentation of why such modifications were made. Test results shall be used as one of multiple indicators, along with such information as the student's transcript and grades, work record, teacher and employer evaluations, work samples, and other relevant information in making admissions related decisions. Counseling and testing, as well as related remedial or developmental work shall be coordinated, where appropriate, with relevant vocational rehabilitation programs and/or programs to build proficiency in the English language.

### TUITION REFUND POLICY

Section 31 of H.R. 4986 mandates a tuition refund policy to be used by all eligible institutions in the federal student aid programs. This policy requires that institutions "earn" tuition in increments that are not greater than 10 percent up to 50 percent of the period of enrollment, at which point the full amount shall be considered earned. The Committee notes that for the purposes of this section, the period of enrollment is the time period for which the student is assessed tuition and fees. Institutions shall be permitted to collect an administrative fee as prescribed by the Secretary.

This section adds a requirement whereby institutions would have to follow rules regarding the attribution of refunds as well. Under these rules, refunds would have to be made first to pay off any outstanding GSL loan obligations, including the origination fee for such loan. The Committee notes that the repayment of outstanding loan obligations applies to only those obligations incurred for the period of enrollment for which the student will receive a refund. In making such a refund to pay off a student loan, the committee intends that the institution making such a refund would send that refund directly to the lender involved to be recorded as a prepayment to the borrower's GSL loan account.

### AUTHORITY TO WITHHOLD TRANSCRIPTS

Section 32 of the bill amends section 487(a) of the Act by adding a new paragraph (11) to authorize institutions, upon notification of the guaranty agency of a default, to withhold academic transcripts of borrowers who default on any Title IV loan. The new paragraph also allows institutions to waive this provision in the event that withholding a borrower's transcript would prevent the borrower from repaying the loan or in other extraordinary circumstances.

While some institutions currently withhold the transcripts of students who default on Perkins Loans, institutions are unable to withhold the transcripts of GSL defaulters because the contractual relationship exists between the student and the lender. The Committee intends that this section grant institutions the authority to withhold transcripts and protect the liability of the institution in taking such an action.

The Committee also notes that a transcript can be an essential document for a student to have access to in making application for employment or to the military. The Committee intends that, in exercising the waiver authority set forth in this section, institutions will promptly consider the student's appeal such as not to impede any application process the student may be undertaking.

### USE RESTRICTIONS ON INSTITUTIONAL PROMOTIONAL ACTIVITIES

Section 33 of the bill amends section 487(a) of the Act by adding a new paragraph (12) to prohibit an institution from using an independent contractor or any person other than a salaried employee to conduct any surveying, canvassing, promotion or similar activities. The Committee notes that this section does not prohibit the use of contractors for recruiting activities, but instead seeks to eliminate the use of those contractors who solicit information from students under false pretenses. An exception is also made for those persons who provide such activities on a volunteer basis. Such persons may be reimbursed for actual expenses.

Institutions are also prohibited from using any contractor or any person other than the salaried employee of the institution to make final determinations that an applicant meets the institution's admissions requirements or the criteria of eligibility for financial aid or pay any bonus or other incentive payment to an individual who makes such a determination. No new contracts can be signed after June 24, 1988 and existing contracts shall be phased out by June 24, 1989.

The Committee is concerned that many student loan defaulters are recruited by independent contractors; by the institution's employees, who are compensated solely on an incentive or commission basis to conduct canvassing, surveying, promoting or other similar activities for the institution; or by non-salaried employees of the institution who receive commissions or incentives and make the final determinations that an individual has met the institution's admission requirements and the criteria of eligibility for financial aid. Under those circumstances, the ability to exercise the necessary supervision or control over such persons, and thereby prevent overzealous recruiting or admissions practices where they exist, is very limited. Consequently, eligibility is denied to institution which do not comply with the stated requirements.

The Committee does not intend, however, to prohibit an institution from paying independent contractors on a commission or other form of incentive compensation basis, as long as the independent contractor does not have direct contact with the prospective students, their parents or legal guardians. For instance, an institution would not lose its eligibility by compensating independent contractors engaged in public relations activities or other forms of mass media advertising on such a basis. Nor would an institution lose its eligibility by paying a commission, bonus or other incentive payment to its salaried employees, including its executive officers, who conduct canvassing, surveying, promotion or similar activities on behalf of the institution, provided, that no such persons are responsible for making the final determination that an individual has met the institution's admission requirements or eligibility criteria for receiving financial aid.

The Committee intends that the prohibitions set forth in this section do not apply to those need analysis servicers certified by the Secretary, pursuant to section 483(b) of the Higher Education Act of 1965, as amended as those servicers do not make final determinations concerning the criteria of eligibility for student aid. Thus, this section shall not apply to such service contracts entered into between a certified need analysis servicer and an institution.

### LIMITATION, SUSPENSION, AND TERMINATION OF CONTRACTORS

Section 34 of the bill amends section 487(c)(1) of the Act by adding a new subparagraph (E) to authorize the Secretary to impose limitation, suspension and termination proceedings on contractors who have acted in violation of Title IV of the Act. The Committee recognizes that many institution choose by utilize outside contractors in the administration of the Title IV programs. While the institution may be held liable for the actions of its servicing agent under current law, no direct action can be taken against the agent by the Secretary. The Committee recognizes that in some instances, agents have violated program requirements under contract with institutions, and while the institution was fined for the violation, the agent escaped without penalty. This section provides the Secretary with the authority to directly sanction agents that commit such violations.

### GUARANTY AGENCY STUDY

Section 35 of the bill requires the Secretary to conduct a study and make recommendations relating to the actions that need to be taken should a guaranty agency become insolvent. The report is due to the Congress six months after enactment. The Committee believes such a study is necessary given the fragile nature and the changing environment in which guaranty agencies operate.

The purpose of the report is to give guidance on what actions the Congress and the Administration must take to prevent such an agency from becoming insolvent or to ensure the orderly transfer and transition of guaranty agency functions should such an agency become insolvent. The Secretary's study shall be inclusive and the

Committee recommends such study include the examination of all alternatives including, but not limited to, the establishment of incentives to existing guaranty agencies to assume outstanding obligations of insolvent agencies or to prevent insolvency. Examples of incentives would include providing for a five-year moratorium or reinsurance triggers for the area served or forwarding of advance funds.

### TECHNICAL CORRECTIONS

Section 36 of the bill makes a technical correction to COBRA.

Section 37 of the bill makes a number of clerical and technical amendments to the Act.

### INAPPLICABILITY TO OUTSTANDING APPROPRIATIONS

Section 38 of the bill provides that none of the provisions of H.R. 4986 shall apply to any funds appropriated prior to the enactment of the bill. Since the appropriations cycle for fiscal year 1989 is well underway, the Committee wants to avoid any confusion as to when the provisions of the legislation shall go into effect. It is the Committee's intention and understanding that no provision of H.R. 4986 shall have any impact on funds appropriated in the fiscal year 1989 Labor-HHS-Education Appropriations bill.

### Congressional Budget Office Estimate

In compliance with clause 2(l)(3)(C) of Rule XI of the Rules of the House of Representatives, the estimate prepared by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974, submitted prior to the filing of this report, is set forth as follows:

U.S. Congress,
Congressional Budget Office,
*Washington, DC, August 3, 1988.*

Hon. Augustus F. Hawkins,
*Chairman, Committee on Education and Labor,*
*House of Representatives, Washington, DC.*

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached revised cost estimate for H.R. 4986, the Student Default Initiative Act of 1988, as ordered reported by the House Committee on Education and Labor on July 12, 1988.

On July 20, 1988, CBO provided a cost estimate of H.R. 4986 based on the bill language available at that time. We have since received updated bill language that alters effective dates. This estimate reflects the new effective dates.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

James L. Blum,
*Acting Director.*

Attachment.

### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 4986.

2. Bill title: Student Default Initiative Act of 1988.

3. Bill status: As ordered reported from the House Education and Labor Committee on July 12, 1988.

4. Bill purpose: The purpose of this bill is to amend the Higher Education Act of 1965 to (1) establish Pell Grants as an entitlement program beginning in fiscal year 1990, which provides funding for the 1990–1991 academic year, (2) make several modifications in the guaranteed student loan program (GSLP) and establish through the Secretary of Education a system for program reviews and default reduction agreements with schools, and (3) authorize four other programs or studies which would assist in the default reduction and prevention efforts. The GSLP is considered an appropriated entitlement program; the authorization to make loans to first-time borrowers expires at the end of 1991. The Pell Grant program would become an appropriated entitlement program as a result of this bill. The authority to make new Pell Grant awards expires at the end of 1991.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

| | 1989 | 1990 | 1991 | 1992 | 1993 |
|---|---|---|---|---|---|
| Direct spending: | | | | | |
| Pell grants: | | | | | |
| Estimated budget authority | | 4,786 | 4,933 | | |
| Estimated outlays | | 954 | 4,706 | 3,942 | 99 |
| Guaranteed Student Loan Program: | | | | | |
| Estimated Budget authority | | −55 | −15 | −20 | 15 |
| Estimated outlays | | −40 | −35 | −30 | 10 |
| Subtotal direct spending: | | | | | |
| Estimated Budget authority | | 4,713 | 4,918 | −20 | 15 |
| Estimated outlays | | 914 | 4,671 | 3,912 | 109 |
| Authorizations: | | | | | |
| Pell grants: | | | | | |
| Estimated authorization level | | −5,907 | −6,310 | | |
| Estimated outlays | | −1,181 | −5,869 | −5,040 | −126 |
| Minimum In-School Loan Repayment Pilot Program: | | | | | |
| Estimated authorization level | (1) | (1) | (1) | (1) | (1) |
| Estimated outlays | (1) | (1) | (1) | (1) | (1) |
| Loan management video tape acquisition and distribution: | | | | | |
| Estimated authorization level | 1 | | | | |
| Estimated outlays | 1 | | | | |
| Financial aid officer training grants: | | | | | |
| Authorization level | 2 | 2 | 2 | | |
| Estimated outlays | (1) | 2 | 2 | 2 | |
| Guarantee agency insolvency study: | | | | | |
| Estimated authorization level | (1) | | | | |
| Estimated outlays | (1) | | | | |
| Subtotal authorizations: | | | | | |
| Estimated authorization level | 3 | −5,905 | −6,308 | | |
| Estimated outlays | 2 | −1,179 | −5,967 | −5,038 | −126 |
| Bill total: | | | | | |
| Estimated budget authority/authorization level | 3 | −1,192 | −1,390 | −20 | 15 |
| Estimated outlays | 2 | −265 | −1,296 | −1,126 | −17 |

[1] Less than $500,000.

The costs of this bill fall in Function 500.

### BASIS OF ESTIMATE

*Pell Grant Program*

H.R. 4986 would make Pell Grants an entitlement to eligible students because the bill would eliminate the provision in current law that allows the Secretary of Education to reduce Pell Grant awards if the appropriation is less than the estimated amount needed to fund the authorized program. Based on the advice of staff of the House Budget Committee, this change would make the entire Pell Grant program an entitlement to students and thereby create new direct spending authority. The bill would require the Secretary to borrow up to 10 percent from the subsequent year's appropriation to meet funding insufficiencies: any funding insufficiencies above 10 percent would require a supplemental appropriation.

Section 38 of this bill states that "None of the provisions of this act or the amendments made by this Act shall apply with respect to funds appropriated prior to the date of enactment of this Act." The CBO cost estimate assumes that the 1989 appropriations for the Pell Grant program, currently in conference, will be enacted prior to the enactment of H.R. 4986 and that the Pell Grant amendments in this bill will become effective in fiscal year 1990. Because the Pell Grant program is authorized only through 1991, this estimate does not consider costs in later years. The analysis uses the CBO Pell Grant model that simulates the effects of program changes on Pell Grant applicants and estimates the costs of fully funding the proposed program.

In addition to making Pell Grants an entitlement program, H.R. 4986 would lower the authorized maximum award in the Pell Grant program from $2,900 to $2,400 for the 1990–91 school year and from $3,100 to $2,500 in 1991–92 academic year. This bill would also change several other small program components that would have a minimal effect on program costs.

Making Pell Grants an entitlement program and reducing the authorized maximum awards would add $9.7 billion in budget authority for direct spending for entitlement programs in fiscal years 1990 and 1991, while lowering authorizations for discretionary programs by $12.2 billion during the same time period.

Compared with the current CBO baseline, which was developed for 1989 through 1993 by inflating the 1988 appropriation for Pell Grants, this bill would increase outlays by $290 million in fiscal years 1990 through 1993.

PELL GRANT COSTS: H.R. 4986 COMPARED TO THE CBO BASELINE PROJECTIONS

[By fiscal years, in millions of dollars]

| | 1989 | 1990 | 1991 | 1992 | 1993 | 5-yr. total |
|---|---|---|---|---|---|---|
| CBO baseline: | | | | | | |
| Budget authority | 4,431 | 4,614 | 4,797 | 4,993 | 5,193 | |
| Outlays | 4,319 | 4,592 | 4,647 | 4,833 | 5,029 | |
| Additional costs associated with H.R. 4986: [1] | | | | | | |
| Budget authority | | 154 | 136 | | | 290 |
| Outlays | | 31 | 147 | 109 | 3 | 290 |

[1] Estimate reflects full funding and the cost of extending eligibility for Pell Grants to students enrolled in school less than half-time, as authorized in the Higher Education Amendments of 1986.

*Guaranteed Student Loan Program (GSLP)*

The Guaranteed Student Loan Program includes the Guaranteed Student Loan (GSL), the Supplemental Loans for Students (SLS), and the Parent Loans for Undergraduate Students (PLUS) programs. Most of the changes included in H.R. 4986 would affect primarily participation in and the cost of the more subsidized GSLs. Since the authority to make loans to first-time borrowers expires at the end of 1991, the estimated cost impacts of programmatic changes reflect this expiration date.

This bill amends the current GSLP law, which was substantially revised by the Higher Education Amendments of 1986 (P.L. 99-498) enacted in October 1986. The combination of some forty program changes in the 1986 statute were expected to have a large effect on participation in the GSLP. However, at this time, very little data exists on the programmatic impacts resulting from the 1986 program changes. Therefore, cost estimates of the further program revisions included in H.R. 4986 are highly uncertain.

CBO estimates that the combination of all the GSLP changes would reduce direct federal costs approximately $55 million in 1990 and increase costs $15 million in 1993. There is substantial interaction between these proposals so that the combined effect of all the changes do not equal the sum of the budget impact of each change estimated separately. Each estimate is discussed below.

H.R. 4986 would require the first cash disbursement of GSL and SLS loans to first-year, first-time undergraduate borrowers to occur 15 days after classes begin. This change would affect close to 1.5 million borrowers. Since disbursements are usually made ten days to two weeks before the start of school, the federal government would pay approximately one month less interest on the first cash disbursement of the GSL loans. A small reduction in loan volume is projected because some students would drop out of school before receiving the proceeds of their loan. In addition, because such students are expected to have high default rates, we project a reduction in future default claims that would reduce federal outlays. H.R. 4986 would also delay the time between the first and second cash disbursement on loans for all other students from a minimum of one-third of the total period of enrollment to one-half the period. This change is expected to have a very small impact on costs. The total budget impact of these two changes is expected to be minimal in 1989 and to save $55 million in 1993.

Under current law, dependent students are expected to contribute a portion of their income as reported on their latest tax return and a portion of all their assets towards their education. As of July 1990, this bill would eliminate any contribution from students' savings from income in the tax year being assessed. By 1991, an estimated 130,000 dependent borrowers would increase their GSL loan levels as a result of this change. By 1993, this provision is expected to cost $5 million.

H.R. 4986 would require the Secretary to publish a report annually beginning in September 1990 on the default rate and the dollars in default for each GSLP school. Based on this report, the Secretary would conduct program reviews of all schools which rank in the top 5 percent of all GSLP schools measured either by default rate or by the dollars in default. Based on the results of these reviews, the Secretary would enter into default reduction agreements with these schools. H.R. 4986 mandates, beginning in 1991, that a minimum of $20 million and a maximum of $25 million be expended from the federal collections of defaulted loans for reports, program reviews, audits, and administration of the default reduction agreements. This cost estimate assumes cost increases of $25 million for each year 1991 through 1993. Because we do not know the results of the program reviews to be used in writing the default reduction agreements nor what specific steps the Secretary would take with each school, we cannot estimate any reductions in defaults from these agreements.

Currently, any parent attending classes at a postsecondary institution can be considered a student for purposes of the GSL progam. A student classification of a parent lowers the expected family contribution towards their dependent child's educational expenses and increases their child's eligibility for a subsidized GSL. H.R. 4986 would mandate that parents be enrolled in a degree or certificate program in order to be categorized as a student in determining their child's eligibility for a GSL. This provision would affect a small number of students and is expected to reduce costs by $5 million in 1993.

Currently, families must contribute, to a dependent child's educational expenses, a portion of their liquid and nonliquid assets above a threshold averaging $30,000. The amount varies with the age of the parents. Under the bill, family contributions from nonliquid assets such as a home, farm, or small business would not be counted in the determination of GSL eligibility beginning with the 1990–1991 school year. The Secretary is directed to recalculate all the asset exclusion tables in the current law to reflect this change. This change would decrease the family financial contribution for many students and thus, increase their eligibility for a GSL. Approximately 700,000 current borrowers, about one-third of all dependent borrowers, would have their loan levels increased as a result of this change. The average loan increase is expected to be about $400. An additional 200,000 students would become eligible for a regular GSL as a result of this change. By 1993, this change is estimated to cost about $90 million.

This bill would establish a six-month Amnesty program for student loan defaulters. This program is to be widely advertised by the Secretary of Education and commence within three months after enactment. Any defaulter who is able to repay his loan in full during this time period is eligible for amnesty. We have assumed in this cost estimate that participation, for the most part, would be from defaulters who would have subsequently begun repaying their loan even in the absence of amnesty. Approximately 10 percent of defaulters currently making payments on their loans, primarily those who have small remaining loan balances, would repay their loans in full during this amnesty period. This would increase collections by approximately $25 million in 1990, but it would decrease federal receipts from those loan repayments over the next few years, thus having no net budget impact over time. The cost of advertising and providing information on the program is expected to be approximately $5 million in 1990.

Beginning in July 1989, H.R. 4986 would establish a federal policy for prorating tuition and fee refunds to students who drop out of school. The bill requires that any refund be first credited to students' outstanding GSLP loans. Based on conversations with the Committee staff, we assumed that the refunds would be made directly to the lender and not to the student. Approximately 150,000 borrowers would have the first disbursement of their outstanding loan balance offset by tuition refunds. This provision is expected to have a negligible budgetary effect in 1989 but would save $95 million in 1993. However, many of these students would also be the same students affected by the 15 day delay in disbursements.

The remaining provisions in H.R. 4986 would increase information sharing among borrowers, institutions, and guarantee agencies, limit program eligibility for schools which lose accreditation, and tighten administrative procedures. All of these changes combined are expected to have a marginal effect on reducing federal costs.

*Other programs*

H. R. 4976 authorizes such sums as may be necessary to cover the administrative costs of the three-year pilot program for students to begin loan repayment while still in school. The bill stipulates that participating schools receive $20 for each participating student. The costs of this pilot program will depend on how many students participate. Assuming that school participation would be similar to those participating in the current income-contingent student loan pilot program, the cost is expected to be minimal. This bill also authorizes such sums as may be necessary for video tape acquisition and distribution to schools for entrance and exit interviews on loan management. If all participating GSLP institutions received entrance and exist videos costing $50 each, the federal costs of this program would be $1 million. The cost would be lower if the Secretary charges schools for these video tapes. H.R. 4986 also authorizes $2 million for each year 1989 trough 1991 for financial aid officer training programs. Finally, H.R. 4986 mandates that the Secretary of Education conduct a study of actions to be taken if a guarantee agency becomes insolvent. This study is to be completed within six month of enactment. Based on other Department of Education studies of similar duration, the cost of this report is expected to be negligible.

The estimated total outlays assume full appropriations of the authorized levels at the start of the fiscal years and reflect the spending pattern of other similar higher education programs.

6. Estimated cost to State and local government: The Congressional Budget Office has determined that the budgets of state and local governments would not be affected directly by the enactment of this bill.

7. Estimate comparison: None.

8. Previous CBO estimate: On July 20, 1988, CBO provided a cost estimate of H.R. 4986 based on the bill language available at that time. We have since received updated bill language that alters effective dates. More specifically, the Amnesty program would now commence on October 1, 1989. Our previous estimate had assumed an April 1989 start based on language that specified that the Am-

nesty program should commence six months after the enactment of the bill.

In addition, the bill now specifies that changes in the treatment of nonliquid assets should begin with the 1990–1991 school year; previous bill language would have had these changes begin with the 1989–1990 school year. The effects of these two implementation date changes are to move estimated savings in the Guaranteed Student Loan program from fiscal year 1989 into fiscal years 1990 and 1991.

9. Estimate prepared by: Deborah Kalcevic and Maureen McLaughlin.

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

## COMMITTEE ESTIMATE

With reference to the statement required by clause 7(a)(1) of Rule XIII of the Rules of the House of Representatives, the Committee agrees with the estimate prepared by the Congressional Budget Office.

## INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of Rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 4986 will have no inflationary impact on prices and costs in the operation of the national economy. It is the judgment of the Committee that there is no inflationary impact of this legislation as a component of the Federal budget.

## COMMITTEE FINDINGS

With reference to the statement required by clause 2(l)(3)(A) of Rule XI of the Rules of the House of Representatives regarding any findings or recommendations pursuant to this Committee's oversight reviews or studies, the Subcommittee on Postsecondary Education has conducted two legislative hearings on this bill.

## OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS

In compliance with clause 2(l)(3)(D) of Rule XI of the Rules of the House of Representatives, the Committee states no findings or recommendations by the Committee on Government Operations were submitted to the Committee with reference to the subject matter specifically addressed in H.R. 4986.

## SUMMARY

The Committee on Education and Labor finds that H.R. 4986 appropriately amends the Higher Education Act of 1965.

## SECTION-BY-SECTION ANALYSIS

*Section 1* of the bill specifies the short title as the "Student Default Initiative Act of 1988" and references the Higher Education Act of 1965 as "the Act".

*Section 2* of the bill, amends section 411(b)(2)(A) of the Act to establish a statutory Pell maximum award of $2,400 for academic year 1990–91 and $2,500 for academic year 1991–92 in the program, eliminates the authority to adjust payments for insufficient appropriations and authorizes the Secretary to draw on up to 10 percent of subsequent year appropriations.

*Section 3* of the bill amends section 411(c)(1)(A) of the Act to limit a student's Pell Grant eligibility to the length of the program plus one year or the portion of the academic year normally required to complete the program. For students enrolled in programs normally requiring more than four academic years, eligibility is limited to six (6) years.

*Section 4* of the bill modifies sections 411F(2) and 480(g) of the Act concerning the treatment of students' income and assets.

*Section 5* of the bill amends section 411F of the Act to modify the definition of an independent student.

*Section 6* of the bill amends section 428(a)(2)(C) of the Act to provide for the treatment of Veterans Benefits in calculating student aid.

*Section 7* of the bill amends section 428(b)(1)(M) of the Act to include a provision which would defer a student's GSL obligation for twelve months if the institution being attended ceases operation.

*Section 8* of the bill amends section 428(b)(2) of the Act to require lenders to notify borrowers, if borrowers are in the grace period or in repayment status, of the sale of the loan prior to the beginning of the repayment period if the sale or transfer results in the student being required to make payments, or to direct other matters concerned with the loan to persons other than to whom such payments were directed before.

*Section 9* of the bill amends section 428(b)(2) of the Act to require the guaranty agency to provide preclaims assistance for default prevention on all loans.

*Section 10* of the bill amends section 428(k) of the Act to require guaranty agencies to notify institutions of the loan status of their former students including information as to when a former students enters default or repayment.

*Section 11* of the bill amends section 428(a)(3)(A)(ii) to make delinquent and defaulted loans eligible for consolidation.

*Section 12* of the bill amends section 428(a)(3) of the Act to permit married students to consolidate their loans.

*Section 13* of the bill amends section 428F of the Act to establish an amnesty program for student loan defaulters.

*Section 14* of the bill adds a new section 428(G) establishing requirements for multiple and delayed disbursement of student loans and requires the Secretary to produce video tapes for use in entrance and exit interviews.

*Section 15* of the bill requires the Secretary to implement a pilot program where students would begin $10 payments on their student loan while they are in school.

*Section 16* of the bill amends section 430A of the Act to require lenders to report delinquent loans to credit bureaus at 90 days of delinquency.

*Section 17* of the bill requires the Secretary to publish guidelines for institutions to use in encouraging student loan payment.

*Section 18* of the bill amends Part B of Title IV by adding a new section 430B to require the Secretary to collect and publish default data and enter into a "Default Reduction Agreement" with specified institutions.

*Section 19* of the bill, adds a new subsection (c) to section 431 of the Act to specify the use of the insurance fund for default reduction management.

*Section 20* of the bill amends section 432(g) of the Act to allow the Secretary to impose fines on educational institutions as well as lenders and guarantors, for willful errors in administering federal student assistance programs.

*Section 21* of the bill amends section 433 of the Act to inform students of the identity of their Guarantor and the toll-free number at which they can obtain information about their loan.

*Section 22* of the bill amends section 435(b) of the Act to require that accrediting agencies investigate excessive defaults and other indicators of lack of successful employment in their review of institutions.

*Section 23* of the bill amends sections 435 and 481 of the Act regarding the effect of loss of accreditation on Title IV eligibility.

*Section 24* of the bill amends section 433(b)(4) of the Act to require that only a student's need-based employment earnings be monitored for the purposes of College Work Study.

*Section 25* of the bill amends sections 475 and 477 of the Act to require that for the purposes of counting the number of family members who are attending college, a parent must be enrolled in a degree or certificate program.

*Section 26* of the bill amends section 479A of the Act to adjust the cost of attendance for independent students with dependents to include the costs of food and shelter for dependent care if the student's income is less than the standard maintenance allowance.

*Section 27* of the bill amends section 480 of the Act to exlude the net value of a family's home, a family farm, or a small business for the purpose of determining eligiblity for student aid.

*Section 28* of the bill amends section 481(d) of the Act to define an academic year as 24 semester or trimester hours or units, or 36 quarter hours or units; 720 clock hours of supervised training or 720 clock hours in a program of study by correspondence.

*Section 29* of the bill amends section 483(f) of the Act to modify the Federal Student Assistance Report such that students are notified of the source of their federal student assistance rather than the amount of their federal student assistance.

*Section 30* of the bill amends sections 484(d) of the Act to require *both* testing and counseling for students who are admitted to a program under the Ability to Benefit provision. This section also requires that ability to benefit tests do not discriminate against persons with limited English proficiency.

*Section 31* of the bill amends section 485(a) of the Act by adding a tuition refund policy.

*Section 32* of the bill amends section 487(a) of the Act to authorize institutions, upon notification of the guaranty agency of a default, to withhold academic transcripts of borrowers who default on any Title IV loan.

*Section 33* of the bill amends section 487(a) of the Act to restrict institutional promotional activities.

*Section 34* of the bill amends section 487(c)(1) of the Act to authorize the Secretary to impose limitation, suspension and termination proceedings on contractors who have acted in violation of Title IV of the Act.

*Section 35* of the bill requires the Secretary to conduct a study and make recommendations relating to the actions that should be taken should a guaranty agency become insolvent. The report is required 60 days after enactment.

*Section 36* of the bill makes a technical correction to COBRA.

*Section 37* of the bill makes a number of clerical and technical amendments to the Act.

*Section 38* of the bill provides a generic effective date for H.R. 4986.

## Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## Higher Education Act of 1965

* * * * * * *

## TITLE III—INSTITUTIONAL AID

* * * * * * *

## Part A—Strengthening Institutions

* * * * * * *

### DEFINITIONS; ELIGIBILITY

Sec. 312. (a) * * *

* * * * * * *

(c) Enrollment of Needy Students.—For the purpose of this part, the term "enrollment of needy students" means an enrollment at an institution of higher education or a junior or community college which includes—

(1) * * *

(2) a substantial percentage of students receiving Pell Grants in the second fiscal year preceding the fiscal year for which determination is being made, in comparison with the percentage of students receiving Pell Grants at all such institutions in *such* second preceding fiscal year, unless the requirement of this subdivision is waived under section 352(a).

* * * * * * *

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## PART C—CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B

* * * * * * *

### ENDOWMENT CHALLENGE GRANTS

SEC. 332. (a) * * *

(b) GRANTS AUTHORIZED.—(1) * * *

(5) Except as provided in paragraph (2)(B), a challenge grant under this section to an eligible institution [year] shall—

(A) not be less than $50,000 for any fiscal year; and

(B) not be more than (i) $250,000 for fiscal year 1987; or (ii) $500,000 for fiscal year 1988 or any succeeding fiscal year.

* * * * * * *

# TITLE IV—STUDENT ASSISTANCE

## PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

* * * * * * *

### SUBPART 1—BASIC EDUCATIONAL OPPORTUNITY GRANTS

### BASIC EDUCATIONAL OPPORTUNITY GRANTS: AMOUNT AND DETERMINATIONS; APPLICATIONS

SEC. 411. (a) * * *

(b) PURPOSE AND AMOUNT OF GRANTS.—(1) * * *

(2)(A) The amount of the basic grant for a student eligible under this part shall be—

(i) * * *

* * * * * * *

(iv) [$2,900] *$2,400* for academic year 1990–1991, and
(v) [$3,100] *$2,500* for academic year 1991–1992,

* * * * * * *

(c) PERIOD OF ELIGIBILITY FOR GRANTS.—(1) The period during which a student may receive basic grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance except that—

(A) such period may not exceed the full-time equivalent of—

[(i) 5 academic years in the case of an undergraduate degree or certificate program normally requiring 4 years or less;

[(ii) 6 academic years in the case of an undergraduate degree or certificate program normally requiring more than 4 years;]

*(i) the number of academic years (or portion of an academic year) that the undergraduate degree or certificate program normally requires, plus one academic year, or the portion of an academic year normally required to obtain the degree or certificate; or*

*(ii) 6 academic years in the case of an undergraduate degree or certificate program normally requiring more than 4 academic years;*

* * * * * * *

[(g) ADJUSTMENTS FOR INSUFFICIENT APPROPRIATIONS.—(1) If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b), the amount paid with respect to each entitlement shall be—

[(A) the full amount for any student whose expected family contribution is $200 or less, and

[(B) a percentage of that entitlement, as determined in accordance with a schedule of reductions established by the Secretary for this purpose, for any student whose expected family contribution is more than $200.

[(2) Any schedule established by the Secretary for the purpose of paragraph (1)(B) of this subsection shall contain a single linear reduction formula in which the percentage reduction increases uniformly as the entitlement decreased, and shall provide that if an entitlement is reduced to less than $100, no payment shall be made.]

*(g) ADJUSTMENTS FOR INSUFFICIENT APPROPRIATIONS.—If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b), the Secretary shall, from the next succeeding fiscal year's appropriation for this subpart, expend such sums as may be necessary to meet any such insufficiencies for the preceding fiscal year, not to exceed 10 percent of such preceding fiscal year's appropriation.*

ELIGIBILITY DETERMINATION FOR DEPENDENT STUDENTS

SEC. 411B. (a) * * *

* * * * * * *

(g) CONTRIBUTION FROM PARENTS' ASSETS.—The standard contribution from parents' assets is determined in accordance with paragraphs (1) through (6):

(1) * * *

* * * * * * *

(5)(A) * * *

(B) If the calculation of [effective family] *discretionary* income required by subsection [(d)] *(f)* produces a negative number, the expected contribution from parental assets, calculated under this paragraph, shall be reduced by the amount of that negative [effective family] *discretionary* income. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

* * * * * * *

### ELIGIBILITY DETERMINATION FOR INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

SEC. 411C. (a) * * *

* * * * * * *

(f) CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) ASSETS.—The standard contribution from student's (and spouse's) assets is determined in accordance with paragraphs (1) through (6):

(1) * * *

* * * * * * *

(5)(A) * * *

(B) If the assessment of discretionary income under subsection (e) produces a negative number, the expected contribution from student's (and spouse's) assets, calculated under this paragraph, shall be reduced by the amount of that negative [effective family] *discretionary* income. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

* * * * * * *

### ELIGIBILITY DETERMINATION FOR SINGLE INDEPENDENT STUDENTS OR FOR MARRIED INDEPENDENT STUDENTS WITHOUT OTHER DEPENDENTS

SEC. 411D. (a) * * *

(f) CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) ASSETS.—(1) The asset contribution amount of an independent student and the student's spouse is equal to 5 percent of the sum of the amounts computed under paragraphs (3) and (4), reduced by the amount, if any, by which [effective family] *discretionary* income as computed under subsection [(c)] *(e)* is less than zero. If the result of such subtraction is a negative amount, the family asset contribution amount is zero.

(2) The family asset contribution amount of a single independent student is equal to 33 percent of such student's net asset value, reduced by the amount, if any, by which effective family income as computed under subsection [(c)] *(e)* is less than zero. If such value minus such amount is a negative amount, the family asset contribution amount is zero.

* * * * * * *

### DEFINITIONS; DETERMINATIONS

SEC. 411F. For the purpose of this subpart—

(1) * * *

(2) The term "assets" means cash on hand, [including amount] *including amounts* in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, and the net value of real estate, income producing property, and business and farm assets. *No cash on hand or other property (or interest therein) of a dependent student shall be treated as an asset of the student (or spouse) for purposes of section 411B(1) except to the extent*

*that such cash or property exceeds the amount the student is required to contribute from discretionary income under section 411B(f).*

* * * * * * *

(9)(A) * * *

(B) For a Native American [Student] *student* the annual adjusted family income does not include any income and assets of $2,000 or less per individual payment received by the student (and spouse) and students' parents under the Per Capita Act or the Distribution of Judgment Funds Act or any income received by the student (and spouse) and student's parents under the Alaska Native Claims Settlement Act or the Maine Indians Claims Settlement Act.

* * * * * * *

[(12)(A) The term independent, when used with respect to a student, means any individual who—

[(i) is 24 years of age or older by December 31 of the award year; or

[(ii) meets the requirements of subparagraph (B).]

*(12)(A) The term "independent," when used with respect to a student, means any individual who—*

*(i) is 24 years of age or older by December 31 of the first calendar year of the award year;*

*(ii) is an orphan or is or has been a ward of the court;*

*(iii) is a veteran of the Armed Forces of the United States;*

*(iv) is a graduate or professional student;*

*(v) is married or has legal dependents;*

*(vi) is an undergraduate student who was not claimed by his or her parents (or guardian) for income tax purposes for the two calendar years preceding the first calendar year of the award year, and who either—*

*(I) was awarded assistance under this title as an independent student in the prior year, or*

*(II) demonstrates to the student financial aid administrator total self-sufficiency during the 2 calendar years preceding the first calendar year of the award year by demonstrating annual total resources (including all sources other than parents and student aid) of $4,000 or, in the case of a student with such annual total resources of less than $4,000, by demonstrating that such student was able to sustain themselves during such period and that remaining sources of financial support were not available from parents or guardians; or*

*(vii) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.*

[(B) Except as provided in subparagraph (C), an individual meets the requirements of this subparagraph if such individual—

[(i) is an orphan or ward of the court;

[(ii) is a veteran of the Armed Forces of the United States;

[(iii) is a graduate or professional student who declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents (or guardian) for the first calendar year of the award year;

[(iv) is a married individual who declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents (or guardian) for the first calendar year of the award year;

[(v) has legal dependents other than a spouse;

[(vi) is a single undergraduate student with no dependents who was not claimed as a dependent by his or her parents (or guardian) for income tax purposes for the 2 calendar years preceding the award year and demonstrates to the student financial aid administrator total self-sufficiency during the 2 calendar years preceding the award year in which the initial award will be granted by demonstrating annual total resources (including all sources of resources other than parents) of $4,000; or

[(vii) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.]

[(C)] *(B)* An individual may not be treated as an independent student pursuant to clauses (iii), (iv), and (vi) of subparagraph [(B)] *(A)* if the financial aid administrator determines that such individual was treated as an independent student during the preceding award year, but was claimed as a dependent by any other individual (other than a spouse) for income tax purposes for the first calendar year of such award year.

[(D)] *(C)* The financial aid administrator may certify an individual described in clause (iii), (iv), or (vi) of subparagraph [(B)] *(A)* on the basis of a demonstration made by the individual, but no disbursal of an award may be made without documentation.

* * * * * * *

ALLOCATION OF FUNDS

SEC. 413D. (a) * * *

* * * * * * *

(d) DETERMINATION OF INSTITUTION'S NEED.—(1) * * *

* * * * * * *

(3)(A) * * *

* * * * * * *

(C) The standard living expense described in subparagraph (A)(ii) is equal to three-fourths [in] *of* the Pell Grant family size offset for a single independent student.

* * * * * * *

## SUBPART 8—SPECIAL CHILD CARE SERVICES FOR DISADVANTAGED COLLEGE STUDENTS

* * * * * * *

### ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED STUDENT LOANS

SEC. 427. (a) LIST OF REQUIREMENTS.—Except as provided in section 428C, a loan by an eligible lender shall be insurable by the Secretary under the provisions of this part only if—

(1) * * *

(2) evidenced by a note or other written agreement which—

(A) * * *

* * * * * * *

(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

(i) * * *

* * * * * * *

(x) not in excess of 6 months of parental leave; [or]

(xi) not in excess of 12 months for mothers with preschool age children who are just entering or reentering the work force and who are compensated at a rate not exceeding $1 in excess of the rate prescribed under section 6 of the Fair Labor Standards Act of 1938[,] ; or

*(xii) not in excess of 12 months during which the borrower is seeking to enroll in a course of study meeting the requirements of clause (i) of this subparagraph, if the borrower was displaced, by the closing or other cessation of activities of an instruction, from enrollment in such a course of study,*

* * * * * * *

(G)(i) contains a notice of the system[,] of disclosure of information concerning such loan to credit bureau organizations under section 430A, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations; and

* * * * * * *

[(4) in the case of any loan made for any period of enrollment that ends more than 180 days (or 6 months) after the date disbursement is scheduled to occur, and for an amount of $1,000 or more, the proceeds of the loan will, subject to subsection (b), be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the second installment being disbursed after not less than one-third of such period (except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment).]

*(4) the funds borrowed by a student are disbursed in accordance with section 428G.*

* * * * * * *

FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS

SEC. 428. (a) FEDERAL INTEREST SUBSIDIES.—

(1) * * *

(2) ADDITIONAL REQUIREMENTS TO RECEIVE SUBSIDY.—(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which the student is in attendance, which—

(I) sets forth such student's estimated cost of attendance (as determined under section 472); [and]

* * * * * * *

*(III) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G; and*

* * * * * * *

(C) For the purpose of paragraph (1) and this paragraph—

(i) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A (as determined in accordance with section 484(b)), subpart 2 of part A, and parts C and E of this title, [and any amount paid the student under chapters 32, 34, and 35 of title 38, United States Code, plus other scholarship, grant, or loan assistance] *and any veterans educational benefits paid because of enrollment in a postsecondary eduaction institution, including (but not limited to) benefits received under chapters 106 and 107 of title 10, and chapters 30, 31, 32, 34, and 35 of title 38, United States Code;* and

* * * * * * *

(b) INSURANCE PROGRAM AGREEMENTS TO QUALIFY LOANS FOR INTRERESТ SUBSIDIES.—

(1) REQUIREMENTS OF INSURANCE PROGRAM.—Any State or any nonprofit private institution of organization may enter into an agreement with the Secretary for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) if the Secretary determines that the student loan insurance program—

(A) * * *

* * * * * * *

(M) provides that periodic installments of principal need not be paid, but interest shall accure and be paid, during and period—

(i) * * *

* * * * * * *

(x) not in excess of 6 months of parental leave; [and]

(xi) not in excess of 12 months for mothers with preschool age children who are just entering or reentering the work force and who are compensated at a rate not exceeding $1 in excess of the rate prescribed under section 6 of the Fair Labor Standards Act of 1938; *and*

*(xii) not in excess of 12 months during which the borrower is seeking to enroll in a course of study meeting the requirements of clause (i) of this subparagraph, if the borrower was displaced, by the closing or other cessation of activities of an institution, from enrollment in such a course of study;*

* * * * * * *

[(O) provides that the proceeds of any loan made for any period of enrollment that ends more than 180 days (or 6 months) after the date disbursement is scheduled to occur, and for an amount of $1,000 or more—

[(i) will be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the second installment being disbursed after not less than one-third of such period (except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment), or

[(ii) will be disbursed in such installments pursuant to the escrow provisions of subsection (i) of this section, but all loans issued for the same period of enrollment shall be considered as a single loan for the purpose of this subparagraph and the requirements of this subparagraph shall not apply in the case of a loan made under section 428A, 428B, or 428C, or made to a student to cover the cost of attendance at an eligible institution outside the United States;]

*(O) provides that the proceeds of the loans will be disbursed in accordance with the requirements of section 428G;*

* * * * * * *

(2) CONTENTS OF INSURANCE PROGRAM AGREEMENT.—Such an agreement shall—

(A) * * *

* * * * * * *

(D) provide for—

(i) conducting, except as provided in clause (ii), financial and compliance audits of the guaranty agency at least once every 2 years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a guaranty program of a State which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period of time covered by such audit; [and]

(E) provide that any guaranty agency may transfer loans which are insured under this part to any other guaranty agency with the approvel of the holder of the loan and such other guaranty agency[.] *;*

*(F) provide that the lender will be required promptly to notify the borrower, and, upon the request of such institution, the guaranty agency shall notify the last institution the student was attending prior to the beginning of repayment of—*

*(i) any sale or other transfer of the loan to another holder,*

*(ii) the address and phone number through which to contact such other holder concerning repayment of the loan,*

*if the borrower is in the grace period or in repayment status, and if the sale or transfer results in the student being required to make payments, or to direct other matters concerned with the loan, to a person other than the person to whom such payments were made or such matters were directed before such sale or transfer;*

*(G) requires the guaranty agency to provide preclaims assistance for default prevention, as described in subsection (c)(6)(B)(ii); and*

*(H) requires the guaranty agency to establish and publicize the existence of a toll-free telephone number to provide timely and accurate information to student borrowers regarding the status of their loans under this part.*

* * * * * * *

(k) INFORMATION ON DEFAULTS.—

(1) PROVISION OF INFORMATION TO ELIGIBLE INSTITUTIONS.—[Notwithstanding any other provision of law, in order to notify eligible institutions of former students who are in default of their continuing obligation to repay student loans, each guaranty agency shall, upon the request of an eligible institution, furnish information with respect to students who were enrolled at the eligible institution and who are in default on the repayment of any loan made, insured, or guaranteed under this part.] *In order to notify eligible institutions concerning the loan status of their former students, each guaranty agency shall notify an eligible institution of, and furnish information with respect to (A) any such former student who is in default of the repayment of any loan made, insured, or guaranteed under this part, and (B) any such student who has entered*

*repayment on such a loan after such a default.* The information authorized to be furnished under this subsection shall include the names and addresses of such students.

* * * * * * *

CONSOLIDATION LOANS

Sec. 428C. (a) Agreements With Eligible Lenders.—

(1) * * *

* * * * * * *

(3) Definition of eligible borrower.—(A) For the purpose of this section, the term "eligible borrower" means a borrower who, at the time of application for a consolidation loan—

(i) * * *

[(ii) is in repayment status, or in a grace period preceding repayment, and is not delinquent with respect to any required payment on such indebtedness by more than 90 days.]

*(ii) is in repayment status, or in a grace period preceding repayment, or is a delinquent or defaulted borrower who will reenter repayment through loan consolidation.*

* * * * * * *

*(C)(i) A married couple, each of whom has eligible student loans, may be treated as if they were an individual borrower under subparagraphs (A) and (B) if they agree to be held jointly and severally liable for the repayment of a consolidation loan, without regard to the amounts of their respective loan obligations that are to be consolidated, and without regard to any subsequent change that may occur in their marital status.*

*(ii) Only one spouse in a married couple applying for a consolidation loan under this subparagraph need meet any of the requirements of subsection (b) of this section, except that each spouse shall (I) individually make the initial certification that no other application is pending provided for in subsection (b)(1)(A), and (II) agreed to notify the holder concerning any change of address as provided for in subsection (b)(14).*

* * * * * * *

(c) Payment of Principal and Interest.—

(1) * * *

* * * * * * *

(3) Additional repayment requirements.—Notwithstanding paragraph (2)—

(A) a repayment schedule established with respect to a consolidation loan shall require that the minimum installment payment *be* equal to not less than the accrued unpaid interest; and

* * * * * * *

### STATE GARNISHMENT LAW REQUIREMENTS

SEC. 428E. (a) REQUIREMENTS FOR ADDITIONAL COST PAYMENTS.—A garnishment law complies with the requirements of this section if such law—

(1) provides that the amount deducted for any pay period may not exceed 10 percent of disposable pay, except that *(A)* a greater percentage may be deducted upon the written consent of the individual involved [except that], *and (B)* any State which has a garnishment law in effect on the date of the enactment of the Higher Education Amendments of 1986 which provides for the deduction of an amount not to exceed 15 percent of disposable pay, shall be deemed to meet the requirements of this paragraph;

* * * * * * *

### [REHABILITATION OF DEFAULTED LOANS

[SEC. 428F. (a) AUTHORITY TO ESTABLISH PILOT PROGRAM.—The Secretary shall, in accordance with the requirements of this section, establish a pilot program to test the feasibility of rehabilitating defaulted loans under this part. Such pilot program shall be commenced within 3 months after the date of enactment of this section and shall be completed not later than 3 years after such date. The Secretary shall submit a report on the results of such pilot program within 3 months after its completion.

[(b) METHOD OF REHABILITATION.—

[(1) SALE OF LOAN PURSUANT TO AGREEMENT.—Upon securing consecutive payments for 12 months of amounts owed on a loan for which the Secretary has made a payment under section 428(c)(1), the guaranty agency (pursuant to an agreement with the Secretary) or the Secretary shall, if practicable, sell the rehabilitated loan to an eligible lender, other than an eligible lender who has been found by the guaranty agency or the Secretary to have substantially failed to exercise the due diligence required of lenders under this part.

[(2) TERMS OF AGREEMENT.—Such agreement between the guaranty agency and the Secretary shall provide—

[(A) for the repayment by the agency to the Secretary of 81.5 percent of the amount of the principal balance outstanding at the time of such sale multiplied by a percentage amount equal to the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

[(B) for the reinstatement by the Secretary (I) of the obligation to reimburse such agency for the amount expended by it in discharge of its insurance obligation under its loan insurance program, and (II) of the obligation to pay to the holder of the rehabilitated loan a special allowance pursuant to section 438.

[(3) PROCEEDS OF SALES OFFSET AGAINST DEFAULT CLAIMS.—Amounts received by the Secretary pursuant to the sale of rehabilitated loans by a guaranty agency under this paragraph shall be deducted from the calculations of the amount of claims for reimbursement filed by the agency under section 428(c)(1) for the fiscal year in which the amount was received, notwithstanding the fact that the default occurred in a prior fiscal year.

[(4) EFFECT OF REHABILITATION ON BORROWER ELIGIBILITY.—Any borrower whose loan is rehabilitated under this subsection shall not be precluded by section 484 from receiving additional assistance under this title (for which he or she is otherwise eligible) on the basis of defaulting on the loan prior to rehabilitation.

[(5) APPLICABILITY OF OTHER TERMS, CONDITIONS, AND BENEFITS.—A loan which is rehabilitated under this paragraph shall be subject to the same terms and conditions and qualify for the same benefits and privileges as other loans made under this part.]

### *AMNESTY PROGRAM*

*SEC. 428F. (a) PROGRAM REQUIREMENTS.—*

*(1) AUTHORITY TO ESTABLISH AN AMNESTY PROGRAM.—The Secretary shall, in accordance with the requirements of this section, establish an amnesty program for borrowers who have one or more loans under part B of title IV of the Act which are in default, as defined in section 435(1). Such program shall commence on October 1, 1989 and shall last for six months.*

*(2) ELIGIBILITY FOR THE BENEFITS OF THE AMNESTY PROGRAM.—In order to be eligible for the benefits of the amnesty program, a borrower who has a loan or loans which are in default shall contact the holder of such loan or loans during the amnesty program and shall pay in full all remaining principal and interest on such loan or loans.*

*(3) BENEFITS OF THE AMNESTY PROGRAM.—For each borrower meeting the requirement of paragraph (2)—*

*(A) no penalties shall be charged on defaulted loans which are paid in full;*

*(B) any information on the defaulted loan or loans which has been reported to credit bureaus shall be removed; and*

*(C) notwithstanding section 484, eligibility to receive additional assistance under this title shall be reestablished.*

*(b) OTHER REPAYMENT INCENTIVES.—*

*(1) SALE OF LOAN.—Upon securing consecutive payments for 12 months of amounts owed on a loan for which the Secretary has made a payment under paragraph (1) of section 428(c), or upon a determination that a loan was in default due to clerical or data processing error and would not, in the absence of such error, be in a delinquent status, the guaranty agency (pursuant to an agreement with the Secretary) or the Secretary shall, if practicable, sell the loan to an eligible lender, other than an eligible lender who has been found by the guaranty agency or the Secretary to have substantially failed to exercise the due diligence required of lenders under this part. Such agreement between the guaranty agency and the Secretary shall provide—*

*(A) for the repayment by the agency to the Secretary of 81.5 percent of the amount of the principal balance out-*

*standing at the time of such sale multipled by a percentage in effect when payment under the guaranty agreement was made with respect to the loan; and*

*(B) for the reinstatement by the Secretary (i) of the obligation to reimburse such agency for the amount expended by it in discharge of its insurance obligation under its loan insurance program and (ii) of the obligation to pay to the holder of such loan a special allowance pursuant to section 438.*

*(2) Use of proceeds of sales.—Amounts received by the Secretary pursuant to the sale of such loans by a guaranty agency under this paragraph shall be deducted from the calculations of the amount of reimbursement for which the agency is eligible under paragraph (1)(B) of this section for the fiscal year in which the amount was received, notwithstanding the fact that the default occurred in a prior fiscal year.*

*(3) Borrower eligibility.—Any borrower whose loan is sold under paragraph (1) shall not be precluded by section 484 from receiving additional loans under this title (for which he or she is otherwise eligibile) on the basis of defaulting on the loan prior to such loan sale.*

*(4) Applicability of general loan conditions.—A loan which is sold under this paragraph shall, so long as the borrower continues to make scheduled repayments thereon, be subject to the same terms and conditions and qualify for the same benefits and privileges as other loans made under this part.*

### *REQUIREMENTS FOR DISBURSEMENT OF STUDENT LOANS*

*Sec. 428g. (a) Multiple Disbursement Required.—*

*(1) Two disbursements required.—The proceeds of any loan made, insured, or guaranteed under this part that is made for any period of enrollment that ends more than 180 days (or 6 months) after the date disbursement is scheduled to occur, and that is for an amount of $1,000 or more, shall be disbursed in 2 or more installments, none of which exceeds one-half of the loan.*

*(2) Minimum interval required.—The interval between the first and second such installments shall be not less than one-half of such period of enrollment, except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment.*

*(b) Initial Disbursement Requirements.—*

*(1) First-year students.—The first installment of the proceeds of any loan made, insured, or guaranteed under this part that is made to a student borrower who is entering the first year of a program of undergraduate education, and who has not previously obtained a loan under this part, shall (regardless of the amount of such loan or the duration of the period of enrollment)—*

*(A) be disbursed by check or other negotiable instrument in the manner required by section 428(b)(1)(N);*

*(B) not be negotiated by the institution until 15 days after the beginning of the period of enrollment;*

*(C) not be negotiated at the end of such period unless—*

*(i) the student continues to be enrolled and in good standing at the institution;*

*(ii) the institution has conducted an entrance interview with the student borrower at which the borrower is counseled—*

*(I) with respect to loan terms and conditions and the consequences of default; and*

*(II) to use loans as a last resort to cover the cost of financing postsecondary education.*

*(2) Other students.—The proceeds of any loan made, insured, or guaranteed under this part that is made to any student other than a student described in paragraph (1) shall not disbursed more than 30 days prior to the beginning of the period of the enrollment for which the loan is made.*

*(3) Beginning of period of enrollment.—For purposes of this subsection, a period of enrollment begins on the first day that classes begin for the applicable period of enrollment.*

*(4) Time for entrance interview.—For purposes of this subsection, the entrance interview may take place not more than 90 days prior to the first day of the period of enrollment.*

*(5) Report on delayed disbursement.—The Secretary shall prepare and, not later than June 30, 1989, and June 30, 1991, shall submit to the appropriate committees of the Congress and the President a report on the effect of the delayed disbursement of student loans to first time, first year students. Such report shall include an assessment of the impacts of delayed disbursement, including paperwork and demand for emergency student loans, on various types of postsecondary educational institutions, including public and private four-year colleges, community colleges, and proprietary schools. the report shall also assess the impacts of delayed disbursement on students and their families as differentiated by income, types of financial assistance received by the student, and student residence on campus, at home, or at other off-campus housing. The report shall assess the impact delayed disbursement has had and is likely to have for potential applicants and students, including decisions to pursue postsecondary education, and effects of delayed disbursement on the student's subsequent retention and educational performance.*

*(c) Method of Multiple Disbursement.—Disbursements under subsections (a) and (b)—*

*(1) shall be made in accordance with a schedule provided by the institution (under section 428(a)(2)(A)(i)(III)) that complies with the requirements of this section; and*

*(2) may be made directly by the lender or, in the case of a loan under section 428, may be disbursed pursuant to the escrow provisions of subsection (i) of such section.*

*(d) Witholding of Second Disbursement.—*

*(1) Withdrawing students.—A lender or escrow agent that is informed by the borrower or the institution that the borrower has ceased to be enrolled on at least a half-time basis before the*

*disbursement of the second or any succeeding installment shall withhold such disbursement unless notified by the institution that such disbursement is necessary to cover costs already earned by the institution (within the meaning of section 485(a)). Any disbursement which is so withheld shall be credited to the borrower's loan and treated as a prepayment thereon.*

*(2) Students receiving over-awards.—If the sum of a disbursement installment for any student and the other financial aid obtained by such student exceeds the amount of assistance for which the student is eligible under this title, the institution such student is attending shall withhold and return to the lender or escrow agent the portion (or all) of such installment that exceeds such eligible amount. Any portion (or all) of a disbursement installment which is so returned shall be credited to the borrower's loan and treated as a prepayment thereon.*

*(e) Aggregation of Multiple Loans.—All loans issued for the same period of enrollment shall be considered as a single loan for the purposes of subsection (a) of this section.*

*(f) Exclusion of PLUS, Consolidation, and Foreign Study Loans.—The provisions of this section shall not apply in the case of a loan made under section 428B or 428C or made to a student to cover the cost of attendance at an eligible institution outside the United States.*

*MINIMUM IN-SCHOOL REPAYMENT PILOT PROGRAM*

*Sec. 428H. (a) Authority To Establish Pilot Program.—The Secretary shall, in accordance with the requirements of this section, establish a pilot program to test the feasibility of requiring minimum repayments by students through escrow accounts administered by the institutions they are attending. The Secretary shall select institutions for participation based on an expression of interest to participate from such institution. Such pilot program shall be commenced within 3 months and completed within 3 years after the date of enactment of this section. The Secretary shall submit to the Congress periodic reports on the results of such pilot program.*

*(b) Program Requirements.—*

*(1) In general.—Each student who has received a loan under this part for study at an eligible institution that is participating in the pilot program shall submit to such institution a minimum of $10 per month and a maximum of $25 per month for deposit in an escrow account administered in accordance with this subsection. Such payments shall be made by the first day of each month beginning more than 60 days after the initial disbursement of such loan. A student shall not be required to make more than one such payment per month, regardless of the number of loans such student has received for study at such institution.*

*(2) Administration of escrow accounts.—Funds submitted by students under paragraph (1) to an eligible institution shall be deposited by the institution into an escrow account. On June 15 and December 15 of each year, the institution shall pay from such account to the lender for any such student the total amount submitted by that student during the preceding 6*

*months. Such payment shall be treated as an accelerated payment of the loan under section 428(b)(1)(D)(i).*

*(3) INSTITUTIONAL INCENTIVES.—Each institution administering an escrow account under this section may—*

*(A) receive an annual payment in an amount determined by the Secretary, not to exceed $20 per student participating in the escrow account, from funds appropriated under paragraph (7); and*

*(B) retain any interest accruing on such account.*

*(4) ENFORCEMENT OF STUDENT PARTICIPATION.—If a student fails to submit to an institution a payment to an escrow account when it is due, such institution may—*

*(A) refuse to provide such student with the certification required under section 428(a)(2) for any subsequent loan to such student; and*

*(B) withhold any subsequent disbursement of the proceeds of any loan to such student.*

*(5) LOAN COUNSELING.—Any institution administering an escrow account under this subsection shall provide loan counseling to students informing them of their responsibilities under this subsection and of the consequences of failure to submit a payment to an escrow account when it is due.*

*(6) PAYMENTS INCLUDED IN COST OF ATTENDANCE.—The total amount that a student is required to pay under this section during a period of enrollment shall be included in computing the cost of attendance for such period.*

*(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to make the payments authorized by paragraph (3)(A) of this subsection.*

* * * * * * *

### REPORTS TO CREDIT BUREAUS AND INSTITUTIONS OF HIGHER EDUCATION

SEC. 430A. (a) AGREEMENTS TO EXCHANGE INFORMATION.—For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this part or covered by a guaranty agreement pursuant to section 428, the Secretary, each guaranty agency, eligible lender, and subsequent holder shall enter into agreements with credit bureau organizations to exchange information concerning student borrowers, in accordance with the requirements of this section. For the purpose of assisting such organizations in complying with the Fair Credit Reporting Act, such agreements may provide for timely response by the Secretary (concerning loans covered by Federal loan insurance), by a guaranty agency, eligible lender, or subsequent holder (concerning loans covered by a guaranty agreement), or to requests from such organizations for responses to objections raised by borrowers. Subject to the requirements of subsection (c), such agreements shall require the Secretary, the guaranty agency, eligible lender, or subsequent holder, as appropriate, to disclose to such organizations, with respect to any loan under this part that has not been repaid by the borrower—

(1) * * *

(2) information concerning the date of any default on the loan and the collection of the loan, including information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 430(a) or the guaranty agency has made a payment to the previous holder of the loan; **[and]**

*(3) with respect to any loan that has been delinquent for 90 days, information concerning the date the delinquency began and the repayment status of the loan; and*

**[**(3)**]** *(4)* the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 437.

* * * * * * *

(c) CONTENTS OF AGREEMENTS.—Agreements entered into pursuant to this section shall contain such provisions as may be necessary to ensure that—

(1) * * *

* * * * * * *

(3) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; **[and]**

(4) with regard to notices of default under subsection (a)(2) of this section, except for disclosures made to obtain the borrower's location, the Secretary, or the guaranty agency, eligible lender, or subsequent holder whichever is applicable (A) shall not disclose any such information until the borrower has been notified that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his or her loan, but (B) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than 30 days, from the date such notice has been sent to the borrower, disclose the information required by this subsection**[**.**]** *; and*

*(5) with respect to notices of delinquency under subsection (a)(3), the borrower is informed that credit bureau organizations will be notified of delinquency that continues for 90 days or more.*

* * * * * * *

### *DEFAULT REDUCTION AGREEMENT*

*SEC. 430B. (a) PLAN FOR COMPREHENSIVE REVIEWS.—*

*(1) IN GENERAL.—Within 3 months of the date of enactment of this section, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan to establish a comprehensive schedule of program reviews for all eligible institutions, guaranty agencies, and lenders participating in the programs authorized under this title.*

*(2) FIVE-YEAR REVIEW CYCLE.—The plan will be designed to accomplish reviews of all participating institutions, lenders, and guaranty agencies within five years, with priority attention to agencies and institutions experiencing difficulties administering such programs.*

*(3) ESTIMATES REQUIRED.—The plan shall include estimates of the budgetary and personnel requirements for carrying out such comprehensive reviews.*

*(4) PERIOD FOR COMMENT; REPORTS ON PROGRESS.—The Secretary shall not implement any plan until 30 days after the date of its submission to the committees required by paragraph (1). The Secretary shall, at the end of each fiscal year, report to such committees on progress made in implementing the plan and on modifications of the plan proposed for the following fiscal year.*

*(b) DEFAULT REPORT.—The Secretary shall, not later than December 31, 1989, and annually thereafter, develop and submit to the Congress an annual default report which shall include—*

*(1) The annual default rate for each institution of higher education participating in the student loan program under this part;*

*(2) The annual dollars in default for each institution of higher education participating in such program;*

*(3) the annual default rate and annual dollars in default for each guarantee agency and eligible lender participating in such program;*

*(4) the average national cumulative default rate;*

*(5) the cohort default rate for each institution; and*

*(6) the annual program default rate.*

*(c) DEFAULT REVIEWS.—*

*(1) REVIEWS REQUIRED BASED ON RANKINGS.—Within 90 days of the publication of each report under subsection (b), the Secretary shall, subject to subsection (g), initiate default reviews at those institutions that fall in the top 5 percent of—*

*(A) all institutions' ranked by cohort default rates, excluding institutions with less than 100 loans under this part outstanding;*

*(B) all institutions' ranked by annual dollars in default, excluding institutions whose annual default rate is less than the average national cumulative default rate of all institutions.*

*(2) METHOD OF RANKING OF INSTITUTIONS.—For the purposes of identifying institutions of higher education that are required to participate in a default reduction agreement under this section, the institutions which are engaged in a default reduction agreement, or for which a waiver has been granted under subsection (g), shall be excluded in the ranking under paragraph (1) of institutions by default rates or dollars in default.*

*(d) CONTENTS OF DEFAULT REVIEW.—A program review shall include (but not be limited to) the following considerations:*

*(1) the administrative practices of the institution with regard to program under this title;*

*(2) a financial audit of the institutions' fiscal practices and record keeping;*

*(3) the composition or size of the student population;*

*(4) the recruiting, admissions, advertising, and marketing policies of the institution;*

*(5) the administration of the "ability to benefit" provisions of section 484(d) of this title;*

*(6) the number of students who have left the institution other than after graduation, including leave-of-absence and academic suspension;*

*(7) program completion and participation rates;*

*(8) the financial aid counseling policies and practices of the institution; and*

*(9) other areas of institutional activities that relate to the reduction of defaults.*

*(e) NEGOTIATION OF THE DEFAULT REDUCTION AGREEMENT.—Subject to subsection (g), the Secretary shall, within 30 days of the completion of the default review as required by subsection (c), initiate a negotiated default reduction agreement with the institution, based on the findings of such default review.*

*(f) CONDITIONS OF THE DEFAULT REDUCTION AGREEMENT.—Such an agreement shall be based on and be consistent with both the institution's and the reviewers' recommendation on specific actions to be taken by the institution that will lead to the reduction of the institution's annual default rate, or the reduction of the annual dollars in default, or both. Such an agreement shall reflect the characteristics of the institution and may include (but is not limited to)—*

*(1) additional training in the administration of the programs under this title;*

*(2) access to technical assistance in the operation of such programs provided by either the Department of Education or a State guaranty agency;*

*(3) requirements that the institution conduct entrance and exit interviews;*

*(4) requirements that the institution establish contact with students during the grace period;*

*(5) requirements that the institution collect additional information from borrowers; and*

*(6) periodic reporting on the status of students receiving aid under this title at the institution.*

*(g) WAIVER.—The Secretary may, with respect to an institution of higher education, waive the default reduction agreement requirement of this section, if the Secretary determines that compliance with such requirement will not lead to a significant reduction of that institution's annual default rate or annual dollars in default.*

*(h) DURATION AND TERMINATION OF AGREEMENTS.—A default reduction agreement shall continue in effect for no longer than three years, and shall provide for a minimum of one evaluation by the Department of Education during the duration of the agreement. If, during the institution's interim evaluation or evaluations, it is determined that the institution no longer would be subject to default review under subsection (b), the default reduction agreement shall be terminated.*

*(i) COMPLETION OF THE DEFAULT REDUCTION AGREEMENT.—Upon the expiration of the default reduction agreement, the Secretary shall assess the institution's compliance with the agreement. In the*

*event that the institution has fully complied with the agreement and remains in the top 5 percent of all institutions in annual default rates or annual dollars in default, the Secretary shall exempt the institution from the requirement to enter into such agreements for a period not to exceed 3 years.*

*(j) Use of L.S.&T. Authority.—*

*(1) Initiation of proceedings required.—The Secretary shall initiate a limitation, suspension, or termination proceeding under section 487(c)(1)(D) with respect to an institution's eligibility to participate in the programs under this title if the institution refused to enter into, or fails substantially to comply with, a default reduction agreement required in accordance with this section.*

*(2) Restriction on use of authority.—The Secretary shall not initiate any limitation, suspension, or termination proceeding under any provision of this title with respect to such eligibility solely on the basis of the default rate (however computed) of the borrowers who attended any institution (whether or not that institution has been the subject of a program review or default reduction agreement under this section).*

*(k) Definitions.—As used in this section—*

*(1) the term "cohort default rate" means the percentage of total matured loans on which borrowers have defaulted in the subject fiscal year as determined by dividing—*

*(A) the total claims paid during the subject fiscal year and the year following the subject fiscal year on loans entering repayment during the subject fiscal year, by*

*(B) the total amount of loans in repayment that entered repayment in the subject fiscal year; and*

*(2) the term "annual dollars in default" means the total principal and interest outstanding on loans on which such claim payments have been made during the subject fiscal year.*

INSURANCE FUND

Sec. 431. (a) * * *

* * * * * * *

*(c) Use for Default Reduction Management.—*

*(1) Use required.—The Secretary shall annually expend no less than $20,000,000 or more than $25,000,000 from funds under this section for default reduction management activities. Such funds shall be in addition to, and not in lieu of, other appropriations made for such purposes.*

*(2) Allowable activities.—Allowable activities for which such funds shall be expended by the Secretary shall include (but not be limited to) the following:*

*(A) program reviews;*

*(B) audits;*

*(C) debt management programs;*

*(D) training activities; and*

*(E) such other management improvement activities approved by the Secretary.*

*(3) Plan for use required.—The Secretary shall submit a plan, for inclusion in the materials accompanying the Presi-*

*dent's budget each fiscal year, detailing the expenditure of funds authorized by this section. At the conclusion of each fiscal year, the Secretary shall report his findings and activities concerning the expenditure of funds authorized by this section to the Appropriations Committees of the House of Representatives and the Senate and to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.*

*(4) TRAINING ACTIVITIES.—Not less than $2,000,000 of the amount made available under paragraph (1) of this subsection shall be used to carry out section 486 of this Act.*

### LEGAL POWERS AND RESPONSIBILITIES

SEC. 432. (a) * * *

* * * * * * *

(g) CIVIL PENALTIES.—

(1) AUTHORITY TO IMPOSE PENALTIES.—Upon determination, after reasonable notice and opportunity for a hearing on the record, that a lender, *an eligible institution*, or a guaranty agency—

(A) has violated or failed to carry out any provision of this part or any regulation prescribed under this part, **[**or**]**

(B) has engaged in substantial misrepresentation of the nature of its financial charges, *or*

*(C) has repeatedly engaged in violations of provisions of this part or regulations prescribed under this part,*

the Secretary may impose a civil penalty upon such lender, *institution*, or agency of not to exceed $25,000 for each violation, failure, or misrepresentation. *For purposes of subparagraph (C) of this paragraph, multiple instances of the same servicing error or omission shall not be considered "repeated violations" unless such error or omission is not corrected after the lender, institution, or agency knows or should, in the exercise of reasonable care, know, that the error or omission is in violation of such provisions.*

* * * * * * *

**[**(3) CORRECTION OF FAILURE.—A lender or guaranty agency has no liability under paragraph (1) of this subsection if, prior to the institution of an action under that paragraph, the lender or guaranty agency cures or corrects the violation or failure or notifies the person who received the substantial misrepresentation of the actual nature of the financial charges involved.**]**

*(3) CORRECTION OF FAILURE.—A lender or guaranty agency shall not be relieved of liability under paragraph (1) because of its cure or correction of the violation or failure, or its notification of the person who received the substantial misrepresentation of the actual nature of the financial charges involved, in cases where the cure, correction, or notification is made after the discovery by the Department of the violation, failure, or misrepresentation.*

* * * * * * *

*(j) Development of Video Tapes for Use in Entrance and Exit Interviews.—*

*(1) Authority to procure.—The Secretary shall, with funds appropriated under paragraph (2), obtain by contract the production and distribution of video tapes to be used in the entrance interviews required by section 428G(b)(1)(C)(ii) and the exit interviews required by section 485(b). Such tapes shall be obtained only from a nonprofit organization with expertise in the area of student financial aid and shall be distributed to eligible institutions without cost or at not more than $50 per copy.*

*(2) Authorization of appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.*

### STUDENT LOAN INFORMATION BY ELIGIBLE LENDERS

Sec. 433. (a) Required Disclosure Before Disbursement.—Each eligible lender shall, at or prior to the time such lender disburses a loan which is insured or guaranteed under this part (other than a loan made under section 428C), provide thorough and accurate loan information on such loan to the borrower. Any disclosure required by this subsection may be made by an eligible lender as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosure shall include—

(1) the name of the eligible lender, and the address to which communications and payments should be sent, *and the name of the guaranty agency for the loan and the toll-free number that the guaranty agency is required to maintain under section 428(b)(2)(H) to inform students of the status of their loan;*

* * * * * * *

(6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan, *including an explanation of the availability of deferments and a statement that the borrower should notify the lender of the reasons for any failure to make a payment when it is due;*

(b) Required Disclosure Before Repayment.—Each eligible lender shall, at or prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the borrower the information required under this subsection. Any disclosure required by this subsection may be made by an eligible lender either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosure shall include—

(1) the name of the eligible lender, and the address to which communications and payments should be sent, *and the name of the guaranty agency for the loan and the toll-free number that the guaranty agency is required to maintain under section 428(b)(2)(H) to inform students of the status of their loans;*

* * * * * * *

(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the

number, amount, and frequency of required payments *and including an explanation of the availability of deferments and a statement that the borrower should notify the lender of the reasons for any failure to make a payment when it is due;*

* * * * * * *

*(e) REQUIRED DISCLOSURE BEFORE 90 DAYS OF DELINQUENCY.—Each holder of a loan insured or guaranteed under this part shall, within the period beginning 30 days and ending 90 days after any delinquency by the borrower, send the borrower a list of loan deferments available under section 427(a)(2)(C) or 428(b)(1)(M) and a statement of the eligibility requirements for such deferments.*

* * * * * * *

### DEFINITIONS FOR STUDENT LOAN INSURANCE PROGRAM

SEC. 435. As used in this part:

(a) ELIGIBLE INSTITUTION.—

(1) IN GENERAL.—[The] *Subject to subsection (k), the* term "eligible institution" means—

(A) an institution of higher education;

(B) a vocational school; or

(C) with respect to students who are nationals of the United States, an institution outside the United States which is comparable to an institution of higher education or to a vocational school and which has been approved by the Secretary for the purpose of this part,

except that such term does not include any such institution or school which employs or uses commissioned salesmen to promote the availability of any loan program described in section 428(a)(1), 428A, or 428B at that institution or school.

* * * * * * *

(b) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" means an educational institution in any State which—

(1) * * *

* * * * * * *

Such term includes any school which provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of paragraphs (1), (2), (4), and (5). If the Secretary determines that a particular category of such schools does not meet the requirements of paragraph (5) because there is no nationally recognized accrediting agency or association qualified to accredit schools in such category, the Secretary shall, pending the establishment of such an accrediting agency or association, appoint an advisory committee, composed of persons specially qualified to evaluate training provided by schools in such category, which shall (i) prescribe the standards of content, scope, and quality which must be met in order to qualify schools in such category to participate in the program pursuant to this part, and (ii) determine whether particular schools not meeting the requirements of paragraph (5) meet those standards. For the purpose of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authorities as to the quality of training offered. *In approving or disapproving an accrediting agency for purposes of paragraph (5), the Secretary may take into account the extent to which such accrediting agency (I) reviews the academic programs and performance of institutions for which a program review is required under section 430B(c), and (II) performs inspections and reviews of such institutions with particular attention to dropout rates and job placement rates as indicators of inadequate counseling and instructional programs and causes of such default rates.*

(c) VOCATIONAL SCHOOL.—The term "vocational school" means a business or trade school, or technical institution or other technical or vocational school, in any State, which—

(1) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit (as determined by the institution under section [481] *484*(d)) from the training offered by such institution;

* * * * * * *

(d) ELIGIBLE LENDER.—

(1) * * *

(2) ADDITIONAL REQUIREMENTS OF ELIGIBLE INSTITUTIONS.—To be an eligible lender under this part, an eligible institution—

(A) * * *

* * * * * * *

(C) shall make loans to not more than 50 percent of the undergraduate students at the [institutions] *institution;* and

(D) shall not make a loan, other than a loan to a graduate or professional student, unless the borrower has previously received a loan from the school or has been denied a loan by an eligible lender;

except that the requirements of subparagraphs (C) and (D) shall not apply with respect to loans made, and loan commitments made, after the date of enactment of the Higher Education Amendments of 1986 and prior to July 1, 1987.

(3) DISQUALIFICATION FOR HIGH DEFAULT RATES.—The term "eligible lender" does not include an eligible institution in any fiscal year immediately after the fiscal year in which the Secretary determines, after notice and opportunity for a hearing, that for each of 2 consecutive years, 15 percent or more of the total amount of such loans as are described in section 428(a)(1) made by the institution with respect to students at that institution and repayable in each such year, are in default, as defined in [section 435(o).] *subsection (l) of this section.*

* * * * * * *

*(k) IMPACT OF LOSS OF ACCREDITATION.—*

*(1) IN GENERAL.—Except as provided in paragraph (2), an institution may not be certified or recertified as an eligible institution under subsection (a) of this section if such institution has—*

*(A) had its accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months; or*

*(B) withdrawn from accreditation voluntarily under a show cause of suspension order during the preceding 24 months.*

*(2) Exceptions.—Paragraph (1) shall not apply to an institution if—*

*(A) such institution's accreditation has been restored by the same accrediting agency which had accredited it prior to the withdrawal, revocation or termination; or*

*(B) such institution has demonstrated its academic integrity to the satisfaction of the Secretary in accordance with section 1201(a)(5) (A) or (B) of this Act.*

* * * * * * *

## PART C—WORK-STUDY PROGRAMS

* * * * * * *

### GRANTS FOR WORK-STUDY PROGRAMS

Sec. 443. (a) * * *

(b) Contents of Agreements.—An agreement entered into pursuant to this section shall—

(1) * * *

* * * * * * *

[(4) Provide that for a student employed in a work-study program under this part, at the time income derived from any employment (including non-work-study or both) is in excess of the determination of the amount of such student's need by more than $200, continued employment shall not be subsidized with funds appropriated under this part;]

*(4) Provide that for a student employed in a work-study program under this part, at the time income derived from any need-based employment (including non-work-study or both) is in excess of the determination of the amount of such student's need by more than $200, continued employment shall not be subsidized with funds appropriated under this part;*

* * * * * * *

## PART D—INCOME CONTINGENT DIRECT LOAN DEMONSTRATION PROJECT

* * * * * * *

### TERMS OF LOAN UNDER THE PILOT PROGRAM

Sec. 454. (a) Conditions, Limitations, and Requirements.—(1) * * *

* * * * * * *

(3) The total amount of loans made by institutions of higher education from loan funds established pursuant to such agreement for any academic year may not exceed—

(A) * * *

* * * * * * *

(C) $4,500 in the case of a student who is in the fourth [and] *or* fifth such year.

* * * * * * *

## PART E—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

* * * * * * *

### ALLOCATION OF FUNDS

SEC. 462. (a) ALLOCATION BASED ON PREVIOUS ALLOCATION.—(1) From the amount appropriated pursuant to section 461(b) for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to—

(A) 100 percent of the amount of Federal capital contribution such institution received under this part for fiscal year 1985, multiplied by

(B) the institution's default penalty, as determined under subsection (f),

except that if the institution [which] has a default rate in excess of the applicable maximum default rate under subsection (g), the institution may not receive an allocation under this paragraph.

(2)(A) * * *

* * * * * * *

(D) For any fiscal year after a fiscal year in which an institution receives an allocation under subparagraph (A), (B), or (C), the Secretary shall allocate to such institution an amount equal to the product of—

(i) the amount determined under subparagraph (A), (B), or (C), multiplied by

(ii) the institution's default penalty, as determined under subsection (f),

except that if the institution [which] has a default rate in excess of the applicable maximum default rate under subsection (g), the institution may not receive an allocation under this paragraph.

* * * * * * *

### TERMS OF LOANS

SEC. 464. (a) * * *

* * * * * * *

(c) CONTENTS OF LOAN AGREEMENT.—(1) * * *

(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period in which the borrower—

(i) * * *

* * * * * * *

(iv) is in service as a volunteer under the Domestic *Service* Volunteer Act of 1973;

* * * * * * *

### CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE

SEC. 465. (a) CANCELLATION OF PERCENTAGE OF DEBT BASED ON YEARS OF QUALIFYING SERVICE.—(1) * * *

(2) Loans shall be canceled under paragraph (1) for service—

(A) * * *

* * * * * * *

(D) as a member of the Armed Forces of the United States, for **[**services**]** *service* that qualifies for special pay under section 310 of title 37, United States Code, as an area of hostilities; or

* * * * * * *

### FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS

SEC. 475. (a) * * *

(b) PARENTS' CONTRIBUTION FROM ADJUSTED AVAILABLE INCOME.—The parents' contribution from adjusted available income is equal to the amount determined by—

(1) computing adjusted available income by adding—

(A) the parents' available income (determined in accordance with subsection (c)); and

(B) the parents' income supplemental amount from assets (determined in accordance with subsection (d));

(2) assessing such adjusted available income in accordance with the assessment schedule set forth in subsection (e); and

(3) dividing the assessment resulting under paragraph (2) by the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which assistance under this title is requested;

except that the amount determined under this subsection shall not be less than zero.

*For purposes of paragraph (3) of this subsection, the number of family members attending such a program does not include any parent who does not meet the requirements of section 484(a)(1) or 484(b)(2).*

(c) PARENTS' AVAILABLE INCOME—

(1) * * *

(2) ALLOWANCE FOR STATE AND OTHER TAXES.—The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 478):

Percentages for Computation of State and Other Tax Allowance

| If parents' State or territory of residence is— | And parents' total income is— | |
|---|---|---|
| | less than $15,000 [or] | $15,000 *or* more |
| | then the percentage is— | |
| Alaska, Puerto Rico, Wyoming | 3 | 2 |
| American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands | 4 | 3 |
| Florida, South Dakota, Tennessee, New Mexico | 5 | 4 |
| North Dakota, Washington | 6 | 5 |
| Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia | 7 | 6 |
| Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky | 8 | 7 |
| California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico | 9 | 8 |
| Maine, New Jersey | 10 | 9 |
| District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island | 11 | 10 |
| Michigan, Minnesota | 12 | 11 |
| Wisconsin | 13 | 12 |
| New York | 14 | 13 |

* * * * * * *

(4) STANDARD MAINTENANCE ALLOWANCE.—The standard maintenance allowance is the amount of reasonable living expenses that would be associated with the maintenance of an individual or family. The standard maintenance allowance is determined by the following table (or a successor table prescribed by the Secretary under section 478):

Standard Maintenance Allowance

| Family Size | Number in College | | | | | |
|---|---|---|---|---|---|---|
| (including student) | 1 | 2 | 3 | 4 | 5 | For each additional [substract] *subtract*: |
| 2 | $8,380 | $6,950 | | | | |
| 3 | 10,440 | 9,010 | $7,580 | | | |
| 4 | 12,890 | 11,460 | 10,030 | $8,600 | | |
| 5 | 15,210 | 13,780 | 12,350 | 10,920 | $8,490 | |
| 6 | 17,790 | 16,360 | 14,930 | 13,500 | 12,070 | [1,430] *$1,430* |
| For each additional add: | 2,010 | 2,010 | 2,010 | 2,010 | 2,010 | |

* * * * * * *

(e) Assessment Schedule.—The adjusted available income (as determined under subsection (b)(1) and hereafter in this subsection referred to as "AAI") is assessed according to the following table (or a successor table prescribed by the Secretary under section [479] *478*):

Parents' Assessment From Adjusted Available Income (AAI)

| If AAI is— | Then the assessment is— |
|---|---|
| Less than −$3,409 | −$750 |
| −$3,409 to $7,500 | 22% of AAI |
| $7,501 to $9,400 | $1,650 + 25% of AAI over $7,500 |
| $9,401 to $11,300 | $2,125 + 29% of AAI over $9,400 |
| $11,301 to $13,200 | $2,676 + 34% of AAI over $11,300 |
| $13,201 to $15,100 | $3,322 + 40% of AAI over $13,200 |
| $15,101 or more | $4,082 + 47% of AAI over $15,100 |

* * * * * * *

### FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS

Sec. 476. (a) * * *

(b) Student's Contribution From Income—

(1) In general.—The student's contribution from income is determined by—

(A) * * *

* * * * * * *

(D) adding to the assessment resulting under subparagraph (C) the amount of untaxed income and benefits of the student (determined in accordance with section 480(c) plus the amount of veterans' benefits paid during the award period under chapters 32, 34, and 35 of title [28] *38,* United States Code.

* * * * * * *

### FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITH DEPENDENTS

Sec. 477. (a) * * *

(b) Family's Available Income.—

(1) * * *

* * * * * * *

(4) Standard maintenance allowance.—The standard maintenance allowance is the amount of reasonable living expenses that would be associated with the maintenance of an individual or family. The standard maintenance allowance is determined by the following table (or a successor table prescribed by the Secretary under section 479):

| Family size | Number in college | | | | | |
|---|---|---|---|---|---|---|
| (including student) | 1 | 2 | 3 | 4 | 5 | For each additional subtract: |
| 2 | $8,380 | $6,950 | | | | |
| 3 | 10,440 | 9,010 | $7,580 | | | |
| 4 | 12,890 | 11,460 | 10,030 | $8,600 | | |
| 5 | 15,210 | 13,780 | 12,350 | 10,920 | $8,490 | |
| 6 | 17,790 | 16,360 | 14,930 | 13,500 | 12,070 | [1,430] *$1,430* |
| For each additional add: | 2,010 | 2,010 | 2,010 | 2,010 | 2,010 | |

* * * * * * *

*For purposes of paragraph (3) of this subsection, the number of family members attending such a program does not include any parent who does not meet the requirements of section 484(a)(1) or 484(b)(2).*

* * * * * * *

### DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS

SEC. 479A. (a) * * *

* * * * * * *

*(d) ADJUSTMENTS FOR INDEPENDENT STUDENTS WITH DEPENDENTS.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if the administrator determines that the cost of the attendance determined under section 472 should include costs of food and shelter for dependent care when the income for independent students with dependents is less than the standard maintenance allowance as defined in section 477(b)(4).*

* * * * * * *

### DEFINITIONS

SEC. 480. As used in this part:
(a) * * *

* * * * * * *

[(d) INDEPENDENT STUDENT.—(1) The term "independent", when used with respect to a student, means any individual who—

[(A) is 24 years of age or older by December 31 of the award year; or

[(B) meets the requirements of paragraph (2).]

*(d) INDEPENDENT STUDENT.—(1) The term "independent." when used with respect to a student, means any individual who—*

*(A) is 24 years of age or older by December 31 of the first claendar year of the award year;*

*(B) is an orphan or is or has been a ward of the court;*

*(C) is a veteran of the Armed Forces of the United States;*

*(D) is a graduate or professional student;*

*(E) is married or has legal dependents;*

*(F) is an undergraduate student who was not claimed by his or her parents (or guardian) for income tax purposes for the two calendar years preceding the first calendar year of the award year, and who either—*

*(i) was awarded assistance under this title as an independent student in the prior year, or*

*(ii) demonstrates to the student financial aid administrator total self-sufficiency during the 2 calendar years preceding the first calendar year of the award year by demonstrating annual total resources (including all sources other than parents and student aid) of $4,000 or, in the case of a student with such annual total resources of less than $4,000, by demonstrating that such student was able to sustain themselves during such period and that remaining sources of financial support were not available from parents or guardians; or*

*(G) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.*

[(2) Except as provided in paragraph (3), an individual meets the requirements of this paragraph if such individual—

[(A) is an orphan or ward of the court;

[(B) is a veteran of the Armed Forces of the United States;

[(C) is a graduate or professional student who declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents (or guardian) for the first calendar year of the award year;

[(D) is a married individual who declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents (or guardian) for the first calendar year of the award year;

[(E) has legal dependents other than a spouse;

[(F) is a single undergraduate student with no dependents who was not claimed as a dependent by his or her parents (or guardian) for income tax purposes for the 2 calendar years preceding the award year and demonstrates to the student financial aid administrator total self-sufficiency during the 2 calendar years preceding the award year in which the initial award will be granted by demonstrating annual total resources (including all sources of resources other than parents) of $4,000; or

[(G) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.]

[(3)] *(2)* An individual may not be treated as an independent student pursuant to subparagraphs (C), (D), and (F) of paragraph [(2)] *(1)* if the financial aid administrator determines that such individual was treated as an independent student during the preceding award year, but was claimed as a dependent by any other individual (other than a spouse) for income tax purposes for the first calendar year of such award year.

[(4)] *(3)* The financial aid administrator may certify an individual described in subparagraph (C), (D), or (F) of paragraph [(2)] *(1)*

**on the basis of a demonstration made by the individual, but no disbursal of an award may be made without documentation.**

* * * * * * *

**(g) Assets.**—*(1)* **The term "assets" means cash on hand, including the amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, and the net value of real estate, income producing property, and business and farm assets.** ***No cash on hand or other property (or interest therein) of a dependent shall be treated as an asset of the student (or spouse) for purposes of section 475(h) except to the extent that such cash or property exceeds the amount the student is required to contribute from available income under section 475(g).***

***(2) For academic year 1990–1991 and succeeding academic years, the term "assets" shall not include the net value of—***

***(A) the family's principal place of residence;***

***(B) a family farm (as that term is defined in regulations prescribed by the Secretary of Agriculture pursuant to the Consolidated Farm and Rural Development Act) on which the family resides; or***

***(C) a small business (as that term is defined in regulations prescribed by the Administrator of the Small Business Administration pursuant to Small Business Act) substantially owned and managed by a member or members of the family.***

***The Secretary shall, by regulation, provide criteria for determining whether a small business is substantially owned and managed by a member or members of the family.***

* * * * * * *

## PART G—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

### DEFINITIONS

SEC. 481. (a) INSTITUTION OF HIGHER EDUCATION.—(1) [For] *Subject to subsection (e), for* the purpose of this title, except subpart 6 of part A and part B, the term "institution of higher education" includes, in addition to the institutions covered by the definition contained in section 1201(a)—

(A) a proprietary institution of higher education;

(B) a postsecondary vocational institution;

(C) a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing; and

(D) a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited 2-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

(b) Proprietary Institution of Higher Education.—For the purpose of this section, the term "proprietary institution of higher education" means a school (1) which provides not less than a 6-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1) and (2) of section 1201(a), (3) which does not meet the requirement of clause (4) of section 1201(a), (4) which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, and (5) which has been in existence for at least 2 years. Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit (as determined by the institution under section 484(d)) from the training offered by the institution. For the purpose of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered. The Secretary shall not promulgate regulations defining the admissions procedures or remediation programs that must be used by an institution in admitting students on the basis of their ability to benefit from the training offered and shall not, as a condition of recognition under section [413(e)] *435(b)* of this Act, impose upon any accrediting body or bodies standards which are different or more restrictive than the standards provided in this subsection.

* * * * * * *

[(d) Academic Year.—For the purpose of any program under this title, the term "academic year" shall be defined by the Secretary by regulation.]

*(d) Academic Year.—(1) For the purpose of any program under this title, the term "academic year" shall be defined as—*

*(A) 24 semester or trimester hours or units, or 36 quarter hours or units;*

*(B) 720 clock hours of supervised training; or*

*(C) 720 clock hours in a program of study by correspondence.*

*(2) Notwithstanding paragraph (1), if an institution of higher education, or an eligible institution for purposes of part B of this title, is licensed by the state in which it is located to provide a course of study the duration of which is (A) specifically required by State law or regulation to be measured on a clock hour basis, or (B) specifically prohibited by State law or regulation from being measured in credit hours, that institution may not measure the length of the course of study or its academic year for that course of study on a credit hour basis for purposes of this title. In all other States, the institution may measure the length of the course of study or its academic year for that course of study on either basis for purposes of this title, but the recognized accredited agency's assessment as to the number of Credit hours constituting the course of study shall apply in the event the institution chooses to measure the length of the course of study or its adacemic year for that course of study on a credit hour basis.*

*(3) Upon application by an eligible institution which offers a combination correspondence/residential training program, the Secretary may wavier other criteria regarding length of course if the eligible instituton offering such training—*

*(A) satisfies all requirements otherwise imposed by the Secretary and the institution's accrediting agency, and*

*(B) the institution's courses meet the minimum standards, either by clock or credit hours, required for particpation in any loan or grant program under this title.*

*(e) Impact of Loss of Accreditation.—*

*(1) In general.—Except as provided in paragraph (2), an institution may not be certified or recertified as an institution of higher education under subsection (a) of this section if such institution has—*

*(A) had its accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months; or*

*(B) withdrawn from accreditation voluntarily under a show cause or suspension order during the preceding 24 months.*

*(2) Exceptions.—Paragraph (1) shall not apply to an institution if—*

*(A) such institution's accreditation has been restored by the same accrediting agency which had accredited it prior to the withdrawal, or revocation or termination; or*

*(B) such institution has demonstrated its academic integrity to the satisfaction of the Secretary in accordance with section 1201(a)(5) (A) or (B) of this Act.*

* * * * * * *

### FORMS AND REGULATIONS

Sec. 483. (a) Common Financial Aid Form and Processing.—(1) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall prescribe a common financial reporting form to be used to determine the need and eligibility of a student for financial assistance under parts A, C, and E of this title (other than under subpart 3 of part A) and to determine the need of a student for the purpose of part B of this title. For the purpose of collecting eligibility and other data for the purpose of part B, guaranty agencies, in cooperation with the Secretary, shall develop separate, identifiable loan application documents that applicants or institutions in which the students are enrolled or accepted for enrollment shall submit directly to eligible lenders and on which the applicant shall clearly indicate a choice of lender. No student or parent of a student shall be charged a fee for processing the form prescirbed by the Secretary whether the student completes that form or any other approved form. A student or parent may be charged a fee for processing an institutional or a State financial aid form or data elements that [is] *are* not required by the Secretary.

* * * * * * *

(f) Notice of Student Aid Receipt.—The Secretary shall develop a single form on which the [amount] *source* of assistance received under this title (except assistance received under subparts 4, 5, and 7 of part A) by each student who receives such assistance can be recorded. This form shall be titled "United States Department of Education, Federal Student Assistance Report". Such form shall have prominently displayed the Great Seal of the United States. Such form shall be the same or a closely similar color to that of checks issued by the Treasury Department and be provided by the Secretary free to eligible institutions in sufficient quantity and in a timely manner so that each eligible institution can provide a completed copy to each recipient of assistance under this title (except assistance received under subparts 4, 5, and 7 of part A) at the time awards are made but not less than once annually.

* * * * * * *

STUDENT ELIGIBILITY

Sec. 484. (a) * * *

* * * * * * *

[(d) Ability to Benefit.—A student who is admitted on the basis of the ability to benefit from the education or training in order to remain eligible for any grant, loan, or work assistance under this title shall—

[(1) receive the general education diploma prior to the student's certification or graduation from the program of study, or by the end of the first year of the course of study, whichever is earlier;

[(2) be counseled prior to admission and be enrolled in and successfully complete the institutionally prescribed program of remedial or developmental education not to exceed one academic year or its equivalent; or

[(3)(A) be administered a nationally recognized, standardized, or industry developed test, subject to criteria developed by the appropriate accrediting association, measuring the applicant's aptitude to complete successfully the program to which the applicant has applied; and

[(B) with respect to applicants who are unable to satisfy the institutions' admissions testing requirements specified in subparagraph (A), be enrolled in and successfully complete an institutionally prescribed program or course of remedial or developmental education not to exceed one academic year or its equivalent.

In order to be eligible for assistance a student cannot be enrolled in either an elementary or a secondary school.]

*(d) Ability To Benefit.—(1) A student who is admitted on the basis of the ability to benefit from the education or training shall, in order to remain eligible for any grant, loan, or work assistance under this title—*

*(A) receive a general education diploma prior to the student's certification or graduation from the program of study, or by the end of the first year of the course of study, whichever is earlier; or*

*(B)(i) be counseled prior to admission and be enrolled in and successfully complete the institutionally prescribed program of remedial or developmental education not to exceed one academic year or its equivalent; and*

*(ii) be administered a nationally recognized, standardized, or industry developed test, subject to criteria developed by the appropriate accrediting association, measuring the applicant's aptitude to complete successfully the program to which the applicant has applied.*

*(2) Any applicant who is unable to satisfy the institution's admissions testing requirements specified in paragraph (1)(B)(ii) shall be enrolled in and successfully complete an institutionally prescribed program or course of remedial or developmental education, not to exceed one academic year or its equivalent, in order to remain eligible for any grant, loan, or work assistance under this title.*

*(3) A student may not be eligible for such assistance if such student is enrolled in either an elementary or secondary school.*

*(4) With respect to tests administered under paragraph (1)(B)(ii) of this subsection, reasonable accommodation shall be made and alternative forms of assessment shall be available for any otherwise qualified applicant to enable an applicant who is of limited English proficiency to take the test. Test results shall be used as one of multiple independent indicators in making admissions and related decisions.*

* * * * * * *

[(c)] *(h) Immigration Status Verification Required.*—The following conditions apply with respect to an individual's receipt of any grant, loan, or work assistance under this title as a student at an institution of higher education:

(1)(A) There must be a declaration in writing to the institution by the student, under penalty of perjury, stating whether or not the student is a citizen or national of the United States, and, if the student is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.

(B) In this subsection, the term "satisfactory immigration status" means an immigration status which does not make the student ineligible for a grant, loan, or work assistance under this title.

(2) If the student is not a citizen or national of the United States, there must be presented to the institution either—

(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

(B) such other documents as the institution determines (in accordance with guidelines of the Secretary) constitutes reasonable evidence indicating a satisfactory immigration status.

(3) If the documentation described in paragraph (2)(A) is presented, the institution shall utilize the individual's alien file or alien admission number to verify with Immigration and Natu-

ralization Service the individual's immigration status through an automated or other system (designated by the Service for use with institutions) that—

(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

(B) protects the individual's privacy to the maximum degree possible.

(4) In the case of such an individual who is not a citizen or national of the United States, if the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

(A) the institution—

(i) shall provide a reasonable opportunity to submit to the institution evidence indicating a satisfactory immigration status, and

(ii) may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

(B) if there are submitted documents which the institution determines constitutes reasonable evidence indicating such status—

(i) the institution shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification.

(ii) pending such verification, the institution may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status, and

(iii) the institution shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(5) If the institution determines after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status—

(A) the institution shall deny or terminate the individual's eligibility for such grant, loan, or work assistance, and

(B) the fair hearing process (which includes, at a minimum, the requirements of paragraph (6)) shall be made available with respect to the individual.

(6) The minimal requirements of this paragraph for a fair hearing process are as follows:

(A) The institution provides the individual concerned with written notice of the determination described in paragraph (5) and of the opportunity for a hearing respecting the determination.

(B) Upon timely request by the individual, the institution provides a hearing before an official of the institution at which the individual can produce evidence of a satisfactory immigration status.

(C) Not later than 45 days after the date of an individual's request for a hearing, the official will notify the individual in writing of the official's decision on the appeal of the determination.

[(d)] *(i) LIMITATIONS ON ENFORCEMENT ACTIONS AGAINST INSTITUTIONS.*—The Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an institution of higher education with respect to any error in the institution's determination to make a student eligible for a grant, loan, or work assistance based on citizenship or immigration status—

(1) if the institution has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service.

(2) because the institution, under subsection [(c)(4)(A)(ii)] *(h)(4)(A)(ii)* was required to provide a reasonable opportunity to submit documentation,

(3) because the institution, under subsection [(c)] *(h)*(4)(B)(ii), was required to wait for the response of the Immigration and Naturalization Service to the institution's request for official verification of the immigration status of the student, or

(4) because of a fair hearing process described in subsection [(c)] *(h)*(5)(B).

[(e)] *(j) VALIDITY OF LOAN GUARANTEES FOR LOAN PAYMENTS MADE BEFORE IMMIGRATION STATUS VERIFICATION COMPLETED.*—Notwithstanding subsection [(c)] *(h)*, if—

(1) a guaranty is made under this title for a loan made with respect to an individual,

(2) at the time the guaranty is entered into, the provisions of subsection [(c)] *(h)* had been complied with,

(3) amounts are paid under the loan subject to such guaranty, and

(4) there is a subsequent determination that, because of an unsatisfactory immigration status, the individual is not eligible for the loan,

the official of the institution making the determination shall notify and instruct the entity making the loan to cease further payments under the loan, but such guaranty shall not be voided or otherwise nullified with respect to such payments made before the date [of] the entity receives the notice.

* * * * * * *

INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

SEC. 485. (a) INFORMATION DISSEMINATION ACTIVITIES.—(1) * * *

* * * * * * *

*(3) For the purposes of paragraph (1)(F) of this subsection, tuition and fees shall be considered to be "earned" in increments (which shall not be greater than 10 percent) of the enrollment period which has elapsed at the time the student withdraws, except that (A) in the case of students withdrawing on or after completion of 50 per-*

*cent of the enrollment period, the full amount of tuition and fees shall be considered to "earned', and (B) the institution shall be treated as earning initial administrative expenses, as defined in accordance with regulations prescribed by the Secretary, at the beginning of such enrollment period. For purposes of this paragraph, the term enrollment period shall mean the length of the program or one calendar year, whichever is less. For the purposes of this paragraph, refunds shall be credited in the following order: outstanding balance on loans under part B, including origination fee; outstanding balance or loans under part E, and finally, other Federal student aid.*

TRAINING IN FINANCIAL AID AND STUDENT SUPPORT SERVICES

SEC. 486. (a) * * *

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(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated [$1,000,000] *$2,000,000* to carry out the provisions of this section for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, [1986] *1991.*

PROGRAM PARTICIPATION AGREEMENTS

SEC. 487. (a) REQUIRED FOR PROGRAMS OF ASSISTANCE; CONTENTS.—In order to be an eligible institution for the purposes of any program authorized under this title, an institution must be an institution of higher education or an eligible institution (as that term is defined for the purpose of that program) and shall, except with respect to a program under subpart 3 of part A, enter into a program participation agreement with the Secretary. The agreement shall condition the intitial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

(1) * * *

* * * * * * *

*(11) Upon notification from the guarantee agency of the default of a student, the institution will withhold the academic transcripts of any student borrower who is in default on any loan made under this title unless the institution determines that—*

*(A) withholding such transcripts will prevent the borrower form obtaining employment and repaying the loan; or*

*(B) extraordinary circumstances make withholding such transcripts unjust or improper.*

*(12) The institution does not—*

*(A) use any independent contractor or any person other than salaried employees of the institution to conduct any canvassing, surveying promotion, or similar activities;*

*(B) use any contractor or any person other than salaried employees of the institution to make final determinations that an individual meets the institution's admissions requirements or the criteria of eligibility for financial aid; or*

*(C) pay any commission, bonus, or other incentive payment to any person making such final determination;*

*except that this paragraph shall not prohibit a volunteer, independent contractor, or person other than a salaried employee from being reimbursed for actual expenses related to activities described in subparagraph (A).*

* * * * * * *

(c) AUDITS; FINANCIAL RESPONSIBILITY; ENFORCEMENT OF STANDARDS.—(1) Notwithstanding any other provisions of this title, the Secretary is authorized to prescribe such regulations as may be necessary to provide for—

(A) * * *

* * * * * * *

(C) the establishment, by each eligible institution under part B responsible for furnishing to the lender the statement required by section 428(a)(2)(A)(i), of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to reenroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than 60 days after such termination or failure to re-enroll; **[**and**]**

(D) the limitation, suspension, or termination of the eligibility for any program under this title of any otherwise eligible institution, or the imposition of a civil penalty under paragraph 2(b) whenever the Secretary has determined, after reasonable notice and opportunity for hearing on the record, that such institution has violated or failed to carry out any provision of this title or any regulation prescribed under this title, except that no period of suspension under this section shall exceed 60 days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time**[**.**]***; and*

*(E) the limitation, suspension, or termination of the eligibility of an individual or organization to contract with any institution to administer any aspect of an institution's student assistance program under this part, or the imposition of a civil penalty under paragraph (2)(B), whenever the Secretary has determined, after reasonable notice and opportunity for a hearing on the record, that such organization, acting on behalf of an institution, has violated or failed to carry out any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this subparagraph shall exceed 60 days unless the organization and the Secretary agree to an extension, or unless limitation or termination proceedings are initiated by the Secretary within that period of time.*

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### ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE

SEC. 491. (a) * * *

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(h) PERSONNEL AND RESOURCES.—(1) The Advisory Committee may appoint such personnel as may be necessary by the Chairman without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and [subtitle] *subchapter* III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule.

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## TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

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## PART B—SCHOOL, COLLEGE, AND UNIVERSITY PARTNERSHIPS

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### COMMUNITY COLLEGE PILOT PROJECT

SEC. 525. (a) * * *

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(g) REPORTS AND INFORMATION.—Each community college that receives a grant under this [subpart] *part* for establishing pilot projects shall submit to the Secretary such reports and other information as is requested in order to evaluate program effectiveness and to disseminate information on exemplary programs to other community colleges, area vocational-technical schools, and other institutions of higher education, for the purposes of promoting greater use of university-secondary school partnerships without direct Federal financial assistance.

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## PART D—TEACHER SCHOLARSHIPS AND FELLOWSHIPS

## SUBPART 1—CONGRESSIONAL TEACHER SCHOLARSHIP PROGRAMS

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### SCHOLARSHIP REPAYMENT PROVISIONS

SEC. 557. Recipients found by the State agency to be in noncompliance with the agreement entered into under section 553(b)(4) of this subpart shall be required to repay a pro rata amount of the scholarship awards received, plus interest (but in no event at an interest rate higher than the rate applicable to loans in the applicable period under part B of [this title] *title IV of this Act*) and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this subpart.

### EXCEPTIONS TO REPAYMENT PROVISIONS

SEC. 558. (a) DEFERRAL DURING CERTAIN PERIODS.—A recipient shall not be considered in violation of the agreement entered into pursuant to section 553(b)(4)(C) during any period in which the recipient—

(1) * * *

* * * * * * *

(6) is seeking and unable to find full-time employment as a teacher in a public or private nonprofit pre-school, elementary or secondary school or a public or private nonprofit **[**pre-school, education**]** *pre-school education* program for a single period not to exceed 27 months; or

* * * * * * *

## PART E—STATE TASK FORCES ON TEACHER TRAINING

### STATE TASK FORCES ON TEACHER TRAINING

SEC. 571. (a) * * *

* * * * * * *

(g) STATE APPLICATIONS.—A State educational agency which desires to obtain a grant under this **[**subpart**]** *part* shall file an application with the Secretary which—

(1) * * *

* * * * * * *

(3) ensures that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation, consistent with the responsibilities of the Secretary under this **[**subpart**]** *part.*

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# TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

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## PART C—GENERAL PROVISIONS

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### DEFINITIONS

SEC. 622. (a) As used in this title—

(1) * * *

* * * * * * *

(6) the term "undergraduate language and area center" means an administrative unit of an institution of higher education, including but not limited to 4-year colleges, that contributes significantly to the national interest through the education and training of students who matriculate into advanced

language [an] *and* area studies programs, professional school programs, or incorporates substantial international and foreign language content into baccalaureate degree programs, engages in research, curriculum development and community outreach activities designed to broaden international and foreign language knowledge, employs faculty with strong language, area, and international studies credentials, maintains library holdings, including basic reference works, journals, and works in translation, and makes training available predominantly to undergraduate students.

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## TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

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## PART F—HOUSING AND OTHER EDUCATIONAL FACILITIES LOANS

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### GENERAL PROVISIONS

SEC. 762. (a) BUDGET AND ACCOUNTING.—In the performance of, and with respect to, the functions, powers, and duties under this part, the [Secretary notwithstanding] *Secretary, notwithstanding* the provisions of any other law, shall—

* * * * * * *

(h) WAGE RATES.—The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors or subcontractors [or] *on* any project assisted under this part, the construction or rehabilitation of which was commenced after the date of enactment of the Housing Act of 1950—

* * * * * * *

### DEFINITIONS

SEC. 764. For the purpose of this part:

(a) * * *

(b) EDUCATIONAL INSTITUTION.—The term "undergraduate postsecondary educational institution" means—

(1) * * *

* * * * * * *

(3) any corporation (no part of the net earnings of which inures to the benefit of any private shareholder or individual)—

(A) * * *

(B) upon dissolution of which all title to any property purchased or built from the proceeds of any loan which is made under section 761, will pass to such institution (or to [anyone] *any one* or more of such institutions) unless it is shown to the satisfaction of the Secretary that such property or the proceeds from its sale will be used for some other nonprofit educational purpose;

* * * * * * *

(e) Faculties.—The term "faculties" means [member] *members* of the faculty and their families.

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## TITLE VIII—COOPERATIVE EDUCATION

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### GRANTS FOR COOPERATIVE EDUCATION PROGRAMS

Sec. 802. (a) * * *

* * * * * * *

(d) Factors for Special Consideration of Applications.—(1) In approving applications under this section, the Secretary shall give special consideration to applications from institutions of higher education for programs which show the greatest promise of success because of—

(A) * * *

(B) the commitment of the institution of higher education to cooperative education [has] *as* demonstrated by the plans which such institution has made to continue the program after the termination of Federal financial assistance.

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## TITLE IX—GRADUATE PROGRAMS

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### Part D—Graduate Assistance in Areas of National Need

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### GRANTS TO ACADEMIC DEPARTMENTS AND PROGRAMS OF INSTITUTIONS

Sec. 942. (a) * * *

(b) Award and Duration of Grants.—(1) * * *

(2) The Secretary shall approve a grant recipient under this part for a 3-year period. From the sums appropriated under this part for any fiscal year, the Secretary shall not make a grant to any academic department or program of an institution of higher education of less than $100,000 or greater than $500,000 per fiscal [year] *year.*

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## TITLE X—POSTECONDARY IMPROVEMENT PROGRAMS

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### Subpart 3—Administrative and General Provisions

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### ADVISORY PROVISIONS

SEC. 1045. (a) ADVISORY BOARD FOR THE MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAMS.—There shall be established an Advisory Board for the Minority Science and Engineering Improvement Programs. The Board shall consist of 9 members, at least 6 of whom must be radial and national origin minority scientists, engineers, or science or engineering educators. In constituting the initial Board under subsection (c), efforts shall be made to achieve a balance on the Board with respect to **[**sexual,**]** *gender,* geographic, and institutional background.

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## TITLE XII—GENERAL PROVISIONS

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### TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE

SEC. 1204. (a) The Secretary is required to waive the eligibility criteria of any postsecondary education program administered by the Department where such criteria does not take into account the unique circumstances in Guam, the Virgin Islands, American Samoa, the Trust **[**Territories**]** *Territory* of the Pacific Islands, and the Northern Mariana Islands. Priority shall be given to proposals submitted by these territories which otherwise meet program criteria.

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## SECTION 16041 OF THE CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985

### SEC. 16041. EFFECTIVE DATES.

(a) * * *

* * * * * * *

**[**(e) RETROACTIVE PROVISION; GRANTS.—The amendment made by section 16033 shall apply to all grants, including grants awarded before the enactment of this Act, and shall take effect 90 days after the enactment of this Act.**]**

**[**(f)**]** *(e)* RETROACTIVE PROVISIONS; ALL ASSISTANCE.—**[**The amendment made by section 16034**]** *The amendments made by sections 16033 and 16034* shall apply to all grants, loans, or work assistance, including such assistance awarded before the enactment of this Act, and shall take effect 90 days after the enactment of this Act.

# SUPPLEMENTAL MINORITY VIEWS

We are facing a tremendous default problem, which we are attempting to address through changes in the federal grant and loan programs. We would just like to note that the purpose of this legislation is to address the default problem with guaranteed student loans. We should be looking for ways to strengthen the Guaranteed Student Loan Program, while lessening the chance that a student will default on a loan. Changing an uncollectable loan into a wasted grant does not alter the systemic problem with the GSL program it only masks it.

We are in favor of the provisions which require more counseling to the students about the loans, the delayed disbursement provisions, and the program review provisions. We are pleased that several concerns raised in the hearings have been incorporated into the majority bill; however, we would hope that we will have the wisdom to write solutions to the default problem in the Guaranteed Student Loan Program without creating more problems.

For years, the appropriations for the maximum award for a Pell Grant has been less than its authorization level. Section 2 of the bill changes the Pell Grant Program into a type of entitlement. The section requires that any "shortfall" in appropriations for a fiscal year must be borrowed from the next year's appropriations. This type of borrowing may cause us to fall one entire year behind in appropriations; it violates the spirit of the Anti-Deficiencies in Government Act whereby the government is not to obligate more funds than are appropriated for a fiscal year; and it will require that the program be continually funded above the CBO baseline. The only hope of restraining this budgetary nightmare is to ensure that the maximum authorizations for the Pell grant be kept close to an attainable appropriation figure. We hope we will have the courage to be responsible in authorizing this program at a manageable level.

BILL GOODLING.
MARGE ROUKEMA.
STEVE BARTLETT.
STEVE GUNDERSON.
CASS BALLENGER.

# SUPPLEMENTAL MINORITY VIEWS OF HON. E. THOMAS COLEMAN—REPORT TO ACCOMPANY H.R. 4986, STUDENT DEFAULT INITIATIVE ACT OF 1988

I support the basic approach of H.R. 4986, which focuses program reviews and subsequent "default reduction agreements" on institutions with high default rates or high dollar volume in default. Such "default reduction agreements" were the basic structure of my bill, H.R. 3876, the "Guaranteed Student Loan Default Reduction Act." Such "default reduction agreements" allow the Secretary of Education to focus program reviews and subsequent remedies on problem institutions—where abuses exist in the management of Title IV programs, where students drop out or withdraw in disproportionately high numbers and where few find employment after completing the education program.

I support the revised Section 18 of the bill, requiring the Secretary to conduct default reviews at institutions in the top five percent of institutions ranked by annual dollars in default, but excluding those institutions whose annual default rate is less than the average national cumulative default rate. This exclusion will prevent an institution's having to undergo unnecessary reviews simply because of the size of its student body.

I am pleased the Report language makes it clear that a "default reduction agreement" will be based on the findings of a program review and will focus its remedies on specific problem areas. While I have no problem with an institution's taking positive and constructive steps in formulating the conditions of such an agreement, in no case should that institution have a right of *de facto* veto on specific provisions.

Because I feel strongly that the Secretary should focus remedies on specific problems and have the flexibility to fashion remedies to the relative severity of the default rate, as an indicator of educational or administrative problems, I am concerned that H.R. 4986 applies the most sweeping and draconian measures to all institutions. Delayed disbursement to all first-time, first-year borrowers, even for a watered-down 15 days period, will be essentially punitive, not remedial, in effect when applied across-the-board to all institutions, regardless of its default experience. In our attempt to prevent students, who drop out early in an educational or training program, from being unnecessarily burdened by debt, we are imposing needlessly harsh restrictions on the accessibility of federal loan funds to all first-time, first-year borrowers. Delayed disbursement—for the full 30 day period—would be an effective remedy with the context of a "default reduction agreement." As it stands, it will be not only burdensome, but ineffective.

My central objections to H.R. 4986 are two-fold: the Pell Grant provision and the failure to include a provision denying Title IV eligibility for specific periods of time for individuals convicted of drug possession or distribution charges.

### PELL GRANT PROVISION

A bill which was supposed to focus on default reduction in the Guaranteed Student Loan program has become, in effect, a mini-reauthorization of Title IV student assistance programs. While I agree that there has been a shift in the balance between grants and loans, with more students—among them low-income, "High risk" students—borrowing to attend college or proprietary schools, I cannot agree that requiring the Secretary to borrow from the subsequent years' appropriations to cover short-falls in the Pell program will solve the problems in the GSL program.

The Committee Report language stresses that the Pell provisions will in no way bypass the appropriations process. I would add that the provision effectively transfers from the Education and Labor Committee to the Appropriations Committee the authority and responsibility to legislate changes in the Pell Grant program when borrowing up to 10% of the subsequent fiscal year's appropriation is insufficient to meet a funding short fall. Should the Appropriations Committee fail to appropriate further supplemental funds, because of concern of putting the next fiscal year's appropriation at risk, it will, no doubt, attempt to hold down program costs by its own reduction schedule, by re-setting maximum grant amounts, or by reducing the universe of recipients by changes in eligibility. How else will the Appropriations Committee respond to a provision which undermines its ability to distribute already limited resources to programs most in need of funding? The irony is that such a provision may well result in long-term instability in this important program and smaller Pell Grants to students.

Setting aside this concern, shifting the Pell Grants from a discretionary program to a "backdoor" entitlement will not reduce spending, will not reduce the budget deficit. While the reduction in maximum awards appears to be a budget savings, when combined with the borrowing authority, it creates a budget expansion, increasing the budget authority for direct spending to $5.2 billion in fiscal year 1990 and $5.6 billion in 1991. Creating such a "hybrid" entitlement will have the effect of further eroding Congress' ability to manage the budgetary process at a time when its ability to control the deficit has been increasingly hampered by required spending and entitlement programs? What Budget Committee will accept the concept of borrowing against the future?

Finally, the Pell provision does not belong in a default reduction bill. In terms of default reduction, the provision will have minimal impact. CBO projects a cost savings of less than $500,000 a year—a drop in the $1.6 billion a year default cost bucket. At a cost of increasing budget authority and outlays by $290 million in fiscal years 1990 through 1993, the Pell provision will not even pay for itself, default reductions during this same period will be less than $2 million. In fact, the combined effect of the provisions of this bill, aimed at reducing defaults which now account for one-half of the GSL program costs, will be to *increase* the cost to the federal government. CBO estimates that the bill, while saving the government

$25 million in 1989, will increase program costs $10 million by 1993.

The Pell Grant provision is ill-conceived, ill-advised, and may well result in a Presidential veto of an important bill.

### DRUG AMENDMENT

During consideration of H.R. 4986, I attempted to add a provision denying Title IV eligibility to individuals convicted on two separate occasions of drug use or possession or of any single offense of distribution of a controlled substance. Ineligibility for Title IV student assistance would be for a period of five years, if the maximum term of imprisonment imposed for the last conviction is one year or less, and 10 years in other cases. The restrictions do not apply to convictions incurred by minors nor to convictions occurring after the date of enactment. Further, the Secretary may waive ineligibility if the individual successfully completed a drug rehabilitation process or has otherwise demonstrated suitable grounds for reinstatement.

This provision focuses on the accountability of the individual drug user—the person who elects to use or deal in narcotics. It gives first-time drug offenders, except in cases of distribution, a second chance and a clear warning; continued drug use threatens the future educational opportunities which are supported by the tax-payer. Such a provision will not, alone, solve the drug problem in this country which is undermining the health of our communities, our families, and individual drug users. But, on our high school and college campuses, this provision sends a clear message to prospective and current recipients of federal aid: you are putting your educational future in jeopardy if you use drugs.

The drug problem is so prevalent, its effect so pernicious in our society that Congress must take every opportunity to discourage and limit drug use, especially by our youth. Rejecting this provision along party lines, the Education and Labor Committee lost such an opportunity. The American people deserve better.

E. THOMAS COLEMAN.

# SUPPLEMENTAL MINORITY VIEWS TO H.R. 4986—THE STUDENT DEFAULT INITIATIVE

There can be no overstating the seriousness of the rising costs of student loan defaults. Defaults represent the third largest expenditure in the Department of Education—costing the federal government an estimated $1.6 billion by 1990. The Committee has correctly identified this as a problem of crisis proportions that threatens to undermine the national consensus behind the federal student loan program.

Clearly, the Pell Grant program is an effective and necessary means of assisting low income students. However, the changes contained in this bill do not efficiently attack the bottom-line problem: the increasing costs of defaults.

According to the Congressional Budget Office, the new Pell Grant provisions in H.R. 4986 include significant changes to the current funding formula. In effect, the bill converts the program into an entitlement by eliminating the provision in current law that allows the Secretary of Education to reduce Pell Grants if the appropriation is less than the estimated amount needed to fund the authorized program. For the first time, H.R. 4986 would require the Secretary to borrow up to 10 percent from the subsequent year's appropriation to meet funding shortfalls. In addition to fund the program above 10 percent would require a supplemental appropriation.

This approach, in effect, circumvents the normal appropriations process. Furthermore, it threatens the stability of the program by allowing a "spend and borrow" attitude. In this sense, creating a de facto entitlement will add significantly to the costs of the bill.

Beyond my concern about converting Pell into an entitlement, my reservations include other key areas. If the bill is to be effective, provisions must be included to reduce the drop-out rate and attack unscrupulous loan practices. While the proprietary schools play an important role in higher education, it is irresponsible to turn a blind eye to those institutions that clearly abuse the system. Documented evidence indicates that many schools exploit and deceive students. There is no excuse for schools to recruit ill-prepared students, falsify entrance exams and promise lucrative jobs solely to increase enrollment. Reputable trade schools do exist, but we must ferret out abuses to protect students and save the reputation of those good schools.

To this end, withholding the disbursement of loans to institutions for all first-time, first-year borrowers could prove an effective and efficient method to reduce loan defaults. However, the bill requires only a 15 day delay.

Studies clearly demonstrate that most students who drop out, do so in the first 30 days of classes. Therefore, withholding disbursement of student loans beyond this "drop out window" makes sense.

Why then should we think that the 15-day disbursement provision in this bill will adequately address the problem? It seems contrary to experience and the evidence.

The provision requiring a program review by the Secretary of Education of all institutions in the top 5% of institutions ranked by default rate and annual dollars in defaults is well founded. This approach requires the Secretary to enter into a Default Reduction Agreement with the institution to determine specific actions to be taken by the institution to lower their default costs or rate.

However, the 5% trigger is too low. Although the Administration's proposal to cut all federal aid to institutions that climb above the 20% default rate, without negotiating a default reduction agreement, may be too punitive, the Committee proposal is too lenient. I would recommend a compromise—one to include the top 10% of those institutions ranked by default rate and annual dollars in defaults.

The rising rate of student loan defaults must be reversed. Congress should, in this legislation, focus attention on encouraging retention and developing the skills necessary for graduating students to find employment, understand the terms of their loans and repay them in a timely fashion.

This bill does correct some of the unintentional and counterproductive provisions included in the new Congressional Methodology (CM) as outlined in the 1986 Higher Education Amendments. Among these are my provisions which address eligibility requirements for student financial aid programs and the removal of non-liquid assets from consideration for loan eligibility.

By removing the value of a family's principle residence from the student loan eligibility formula we have established a more equitable formula to determine eligibility. Clearly, the market distortions and unpredictability of non-liquid assets should not be used to determine eligibility.

My other amendments make minor modifications to Congressional Methodology used for determining eligibility for student financial aid. They modify the independent student definition, address the problems associated with student contribution from previous year's income, clarify the treatment of Veterans benefits, eliminate confusion and double counting in the work study program, adjust the standard maintenance allowance for low income students and require that only parents enrolled in a degree or certificate program be allowed to reduce their contribution to their children's education.

In summary, the problem of student loan defaults must be addressed by requiring students, lenders and educational institutions to bear more responsibility for loan repayment and by tightening the loopholes to reduce exploitation by less than reputable institutions. H.R. 4986, while well intentioned falls short of the desired goal—to reduce the costs of student loan defaults.

MARGE ROUKEMA.

# ADDITIONAL VIEWS OF HON. STEVE BARTLETT ON H.R. 4986

## REPAYMENT PROGRAM AMENDMENT

While the Pilot Repayment Program provisions contained in section 15 of the bill which were adopted by the Committee during markup are a step forward, I believe a permanent in-school repayment program should be a part of any legislation aimed at reducing defaults.

Such a program would allow the borrower to become accustomed to a repayment schedule while in school, and instill a responsibility for loan repayment. Thus, upon graduation, adjusted loan repayments would continue, rather than commence.

STEVE BARTLETT.

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